

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES, ) CR-09-00487-RMW  
)  
PLAINTIFF, )  
) JUNE 20, 2012  
VS. )  
) VOLUME 8  
ALBERT KE-JENG HU, )  
)  
DEFENDANT. ) PAGES 972-1134  
)  
\_\_\_\_\_)

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: U.S. ATTORNEY'S OFFICE  
BY: JOSEPH FAZIOLI  
TIM LUCEY  
150 S. ALMADEN BLVD, STE 900  
SAN JOSE, CA 95113

FOR THE DEFENDANT: ATTORNEY AT LAW  
BY: JERRY FONG  
PO BOX 1040  
PALO ALTO, CA 94302-1040

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

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1 SAN JOSE, CALIFORNIA

JUNE 20, 2012

2 P R O C E E D I N G S

3 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD OUT  
4 OF THE PRESENCE OF THE JURY:)

5 THE COURT: GOOD MORNING, EVERYBODY.

6 WE ARE MISSING ONE JUROR. IT'S ONE OF  
7 THE ALTERNATES. WE HAVE TRIED TO GET A HOLD OF  
8 HER, BUT WE HAVE NOT BEEN ABLE TO. WE DO NOT HAVE  
9 A MESSAGE FROM HER.

10 MY SUGGESTION IS SHE'S AN ALTERNATE,  
11 WE'VE STILL GOT ANOTHER ALTERNATE, WE ARE DONE WITH  
12 THE CASE, WE GO FORWARD.

13 MR. FONG: THAT'S FINE WITH THE DEFENSE,  
14 YOUR HONOR.

15 MR. FAZIOLI: THAT'S FINE WITH THE  
16 GOVERNMENT, YOUR HONOR.

17 MR. FONG: YOUR HONOR, WE DO HAVE ONE  
18 MATTER THAT I WOULD LIKE TO TAKE UP WITH THE COURT  
19 BEFORE WE START.

20 MY UNDERSTANDING FROM CONSULTING WITH THE  
21 GOVERNMENT'S COUNSEL IS THAT THE GOVERNMENT INTENDS  
22 IN ITS CLOSING ARGUMENT TO DISPLAY THE TRANSCRIPTS  
23 OF, EXCERPTS OF TRANSCRIPTS OF WITNESS BOB LIN'S  
24 TESTIMONY. I'M NOT SAYING THAT'S RIGHT OR WRONG, I  
25 PERSONALLY HAVE NOT SEEN THAT DONE BEFORE AND I DO

1 KNOW THAT THE JURORS WILL NOT HAVE A COPY OF THE  
2 TRANSCRIPT. THEY CAN CERTAINLY ASK FOR A REREAD OF  
3 ANY RELEVANT PORTIONS AND I'M CONCERNED THAT THERE  
4 MIGHT BE A PROBLEM WITH THE JURORS SEEING AN  
5 EXCERPT OF A TRANSCRIPT UP THERE AND THINKING WELL,  
6 THAT TRUMPS EVERYTHING BECAUSE IT'S THE TRANSCRIPT.

7 MR. FAZIOLI: YOUR HONOR, TO BE CLEAR, WE  
8 DO HAVE A POWERPOINT PRESENTATION WE WERE PLANNING  
9 IN CLOSING. IN IT WERE A COUPLE OF SLIDES OF  
10 VARIOUS INVESTOR WITNESSES WITH A DESCRIPTION OF A  
11 QUESTION AND AN ANSWER.

12 THIS IS A PRACTICE I HAD SEEN DONE IN  
13 OTHER INVESTMENT FRAUD TRIALS, PUBLISHING A  
14 QUESTION AND AN ANSWER.

15 AND THE GOVERNMENT HAS, THERE WERE  
16 REFERENCES TO TRANSCRIPT NUMBERS WHICH WE HAVE  
17 REMOVED THAT MAY LESSEN ANY SORT OF IMPRIMATUR THIS  
18 IS, IN THAT REGARD. AND WE ARE ALSO PREPARED TO  
19 NOTE BEFORE WE SHOW ANY OF THESE SLIDES THAT THIS  
20 IS, THAT THEIR RECOLLECTION OF THE EVIDENCE  
21 CONTROLS AND IF THEIR RECOLLECTION OF WHAT  
22 WITNESSES SAID IS DIFFERENT THAN WHAT'S ON THE  
23 SLIDES, THEN THAT CONTROLS.

24 THE COURT: I DON'T THINK I SEE A  
25 PROBLEM.

1 MR. FONG: AS LONG AS IT'S MADE CLEAR  
2 THAT WHAT THEY ARE SEEING IS NOT MEANT TO BE THE  
3 TRANSCRIPT. BECAUSE I DO THINK UNDERSTANDABLY WILL  
4 PUT A LOT MORE FAITH IN A TRANSCRIPT AS OPPOSED TO,  
5 THIS IS A POWERPOINT PRESENTATION OF WHAT THE  
6 GOVERNMENT IS CONTENDING.

7 MR. FAZIOLI: WELL, IT IS, JUST TO BE  
8 CLEAR, WE ARE NOT GOING TO REPRESENT THAT THIS IS  
9 AN OFFICIAL TRANSCRIPT, BUT IT IS IN FACT THE  
10 TRANSCRIPT, IT'S NOT A RECREATION --

11 THE COURT: AS I UNDERSTAND IT YOU ARE  
12 GOING TO ARGUE THIS IS A QUESTION THAT WAS ASKED  
13 AND THIS IS THE ANSWER THAT WAS GIVEN.

14 MR. FAZIOLI: YES.

15 THE COURT: AND NOT THIS IS THE OFFICIAL  
16 TRANSCRIPT THAT SHOWS THE QUESTION AND ANSWER.

17 MR. LUCEY: NOT AT ALL, YOUR HONOR.

18 MR. FONG: YES, THEY ARE ENTITLED TO SAY  
19 THIS QUESTION WAS ASKED THIS ANSWER WAS GIVEN. I  
20 WANT TO MAKE SURE THERE'S NO MENTIONING THAT THIS  
21 IS AN OFFICIAL TRANSCRIPT.

22 BUT I HEAR THEY ARE NOT PLANNING TO DO  
23 THAT SO I THINK THE MATTER IS TAKEN CARE OF.

24 THANK YOU.

25 THE COURT: WHAT'S YOUR ANTICIPATED

1           LENGTH OF YOUR CLOSING?

2                   MR. FAZIOLI:   I WOULD SAY AN HOUR PERHAPS  
3           TO AN HOUR AND 20 MINUTES.   IT WILL DEPEND ON HOW  
4           THE SLIDES PROGRESS.

5                   MR. FONG:   YOUR HONOR, I WOULD ESTIMATE  
6           MINE WILL BE AN HOUR, MAYBE MORE.   I HIGHLY DOUBT  
7           THAT IT'S GOING TO BE LESS THAN AN HOUR.

8                   THE COURT:   I WILL TELL YOU THAT STUDIES  
9           HAVE SHOWN THAT AFTER 20 MINUTES COMPREHENSION GOES  
10          DOWN QUITE A BIT, AND AFTER AN HOUR IT'S BASICALLY  
11          GONE.   SO JUST BEAR THAT IN MIND.

12                   MR. FAZIOLI:   WE WILL BE AS CONCISE AS WE  
13          CAN, YOUR HONOR.

14                   THE COURT:   IF THERE'S ONE THING I HAVE  
15          LEARNED FROM BEING A JUDGE IS THAT CLOSING  
16          ARGUMENTS TEND TO BE TOO LONG.   AND I HAVE -- CAN'T  
17          TELL YOU HOW MANY TIMES I'VE SAID AND HEARD AN  
18          ARGUMENT AND SAID THAT'S THE BEST ARGUMENT I'VE  
19          EVER HEARD, AND IT WENT ON AND I HAD FORGOTTEN BY  
20          THE END WHY IT WAS ANY GOOD.

21                   OKAY.   WE WILL BRING THE JURY IN.

22                   MR. FAZIOLI:   AND YOUR HONOR, THE  
23          GOVERNMENT INTENDS TO SPLIT -- I'M GOING TO DO THE  
24          CLOSING ARGUMENT, MR. LUCEY WILL DO THE REBUTTAL.

25                   THE COURT:   THAT'S FINE.   JUST -- THE

1 REPLY NEEDS TO BE SHORT.

2 MR. LUCEY: YOUR HONOR, IS YOUR PRACTICE  
3 TO GENERALLY TAKE A BREAK BETWEEN THE SECTIONS?

4 THE COURT: MAYBE NOT BETWEEN -- DEPENDS  
5 ON HOW LONG.

6 MR. LUCEY: VERY GOOD, YOUR HONOR.

7 (WHEREUPON, THE FOLLOWING PROCEEDINGS  
8 WERE HELD IN THE PRESENCE OF THE JURY:)

9 THE COURT: I APOLOGIZE FOR THE LATE  
10 START. I DON'T KNOW WHAT HAPPENED TO THE ONE  
11 JUROR. SHE IS AN ALTERNATE SO I TALKED TO THE  
12 PARTIES AND WE ALL AGREE THAT IT MAKES SENSE TO GO  
13 FORWARD BECAUSE SHE PROBABLY WOULDN'T HAVE BEEN  
14 NEEDED ANY WAY.

15 BUT I DO APOLOGIZE FOR THE DELAY. BUT WE  
16 ARE READY TO PROCEED WITH THE CLOSING ARGUMENTS.  
17 LET ME JUST CONFIRM FIRST, BOTH SIDES ARE SATISFIED  
18 THAT THEIR EVIDENCE IS IN THAT THEY INTENDED TO  
19 OFFER

20 MR. FAZIOLI: YES, YOUR HONOR.

21 MR. FONG: FOR THE DEFENSE, YES, YOUR  
22 HONOR.

23 THE COURT: OKAY. THANK YOU.

24 MR. FAZIOLI, ARE YOU DOING THE CLOSING?

25 MR. FAZIOLI: I AM, YOUR HONOR.

1 THE COURT: LET ME JUST EXPLAIN BRIEFLY.

2 THE GOVERNMENT HAS THE OPPORTUNITY TO GO  
3 FIRST IN CLOSING ARGUMENT BECAUSE IT HAS THE BURDEN  
4 OF PROOF. IT ALSO HAS AN OPPORTUNITY TO DO A SHORT  
5 REBUTTAL TO THE DEFENSE'S ARGUMENT AFTER THEY MAKE  
6 THEIR ARGUMENT.

7 AND THE REASON THEY GET TO GO FIRST AND  
8 HAVE ALSO THE CLOSING ARGUMENT IS THAT THEY HAVE  
9 THE BURDEN OF PROOF.

10 OKAY. YOU MAY PROCEED.

11

12 **CLOSING ARGUMENTS BY MR. FAZIOLI**

13

14 MR. FAZIOLI: THANK YOU, YOUR HONOR.

15 LET ME INTRODUCE MYSELF AGAIN FOR THE  
16 LAST TIME. MY NAME IS ASSISTANT UNITED STATES  
17 ATTORNEY JOSEPH FAZIOLI. I'M PROSECUTING THIS CASE  
18 WITH MY COLLEAGUE, ASSISTANT UNITED STATES ATTORNEY  
19 TIM LUCEY, WHO AFTER DEFENSE COUNSEL HAS AN  
20 OPPORTUNITY TO GIVE A CLOSING STATEMENT, WILL GIVE  
21 A BRIEF REBUTTAL.

22 AND WE HAVE A POWERPOINT PRESENTATION  
23 THAT WE ARE GOING TO BE PRESENTING TO TRY TO  
24 PRESENT A SUMMARY OF SOME OF THE EVIDENCE THAT WAS  
25 PRESENTED IN THIS CASE.



1           AND OF COURSE KEEP IN MIND THAT NOTHING  
2           THE COUNSEL SAYS IS EVIDENCE.   THE EVIDENCE IS THE  
3           INFORMATION THAT YOU'VE HEARD, THE TESTIMONY AND  
4           THE DOCUMENTS.

5           AND ALSO, BEFORE I BEGIN THE CLOSING  
6           STATEMENT, LET ME SAY THAT TIM AND I THANK YOU FOR  
7           YOUR SERVICE IN TERMS OF TAKING THE TIME TO SERVE  
8           AS JURORS IN THIS CASE OVER THE LAST COUPLE OF  
9           WEEKS AND WE DO GREATLY APPRECIATE IT.

10          MEMBERS OF THE JURY, YOU'VE HEARD  
11          EVIDENCE OVER THE LAST FEW WEEKS ABOUT ALBERT HU  
12          AND HIS INVESTMENT FUNDS.   THE GOVERNMENT WOULD  
13          SUBMIT THAT THIS IS, IN ITS ESSENCE, A VERY  
14          STRAIGHTFORWARD CASE.

15          THE EVIDENCE HAS SHOWN THAT ALBERT HU,  
16          THE DEFENDANT, LIED TO VARIOUS PEOPLE TO GET THEIR  
17          MONEY, THAT BASED ON HIS FALSE STATEMENTS AND  
18          REPRESENTATIONS AND PROMISES, AND THERE WERE  
19          NUMEROUS REPRESENTATION CUBICLES AND PROMISES THAT  
20          WE WILL GO THROUGH, 5 OR 6, THAT BASED UPON THOSE  
21          REPRESENTATIONS AND PROMISES, THAT ALBERT HU CAUSED  
22          INVESTORS TO WIRE HIM MONEY, MILLIONS OF DOLLARS.  
23          HE CAUSED WIRES.

24          AND THAT AFTER HAVING RECEIVED THAT MONEY  
25          ON THE BASIS OF THOSE FALSE REPRESENTATIONS, THAT

1 THE DEFENDANT STOLE THAT MONEY. HE DIDN'T USE IT  
2 FOR THE PURPOSES, HE PROMISED AND HE DIDN'T USE IT  
3 FOR INVESTMENT PURPOSES.

4 A FAIRLY STRAIGHTFORWARD CASE. AND THE  
5 GOVERNMENT WOULD ALSO SUBMIT THE EVIDENCE THAT THE  
6 DEFENDANT, ALBERT HU, COMMITTED WIRE FRAUD, THAT HE  
7 MADE FALSE REPRESENTATIONS TO THE INVESTORS, THAT  
8 HE CAUSED WIRES THAT HE TOOK THEIR MONEY, THAT  
9 THERE WAS A SCHEME TO DEFRAUD, THE GOVERNMENT  
10 RESPECTFULLY SUBMITS THAT THE EVIDENCE WAS  
11 DEFENDANT'S GUILTY IS OVERWHELMING.

12 THERE'S A MOUNTAIN OF EVIDENCE FROM  
13 VARIOUS SOURCES WHICH WE WILL SUMMARIZE THAT WE  
14 THINK SUPPORTS A VERDICT OF GUILTY ON ALL CHARGES.

15 DRAWING YOUR ATTENTION TO OUR  
16 PRESENTATION. THE EVIDENCE HAS SHOWN BETWEEN 2002  
17 AND 2008 THE DEFENDANT ALBERT HU ENGAGED IN A  
18 SCHEME TO DEFRAUD RELATED TO HEDGE FUNDS HE FOUND  
19 THAT HE NAMED THE ASENQUA BETA FUND AND THE  
20 FIRESIDE LS FUND.

21 YOU MAY HAVE HEARD ABOUT A NUMBER OF  
22 DIFFERENT ENTITIES IN THIS CASE THAT ARE ASSOCIATED  
23 WITH THE DEFENDANT. THESE ARE TWO THAT WE HAVE  
24 BEEN FOCUSSING ON, THE ASENQUA BETA AND THE  
25 FIRESIDE LS FUND. FUNDS THE DEFENDANT ALBERT HU

1       CREATED AND CONTROLLED.

2               THE EVIDENCE SHOWS ALBERT HU DEFRAUDED  
3       VARIOUS PEOPLE OF MILLIONS OF DOLLARS BY MAKING  
4       VARIOUS FALSE REPRESENTATIONS.

5               THERE WERE SEVEN CHARGED COUNTS IN THIS  
6       CASE, AND WE WILL WALK THROUGH THEM.   THERE'S  
7       EVIDENCE OF A SCHEME TO DEFRAUD THEN THERE WERE  
8       SEVEN WIRES THAT THE DEFENDANT ALBERT HU CAUSED TO  
9       BE MADE AND KNEW WERE CAUSED TO BE MADE.

10              COUNT ONE RELATES TO AN INVESTOR THAT YOU  
11      HEARD, THE GOVERNMENT'S FIRST WITNESS, FUYUAN BOB  
12      LIN.   COUNT ONE RELATES TO A \$100,000 WIRE TRANSFER  
13      THAT MR. LIN SENT ON FEBRUARY 8TH, 2005.   AND FBI  
14      AGENT WONDERLY, WHO IS PART OF THE TEAM, HAS TAKEN  
15      A PICTURE OF MR. LIN, AND YOU MAY RECALL MR. LIN.

16              COUNT TWO IS A WIRE TRANSFER THAT MR. LIN  
17      SENT A COUPLE WEEKS LATER ON FEBRUARY 23RD, 2005.  
18      WE WILL WALK THROUGH -- YOU MAY RECALL THAT YOU  
19      HEARD FINANCIAL SUMMARY TESTIMONY FROM THE CASE  
20      AGENT IN THIS CASE, FBI AGENT GREG FINE WHO IS AT  
21      THE TABLE.   HE PRESENTED SUMMARY FINANCIAL  
22      TESTIMONY ABOUT A NUMBER OF MATTERS.

23              ONE OF THE MATTERS HE TESTIFIED ABOUT WAS  
24      WHAT HAPPENED TO BOB LIN'S MONEY, WHAT DID THE  
25      DEFENDANT ALBERT HU DO WITH BOB LIN'S MONEY FOR

1 THOSE FIRST TWO WIRES. THE COUNT ONE WHICH IS THE  
2 ONE ON FEBRUARY 8TH AND COUNT TWO, THE ONE ON  
3 FEBRUARY 23RD.

4 YOU MAY ALSO RECALL AT THE BEGINNING OF  
5 THE GOVERNMENT'S CASE BEFORE MR. LIN TESTIFIED I  
6 READ A STIPULATION THAT LAID OUT THE DETAILS OF THE  
7 FINANCIAL RECORDS, TRIAL STIPULATION ONE.

8 AND YOU WILL HEAR THE PARTIES HAVE  
9 STIPULATIONS THAT THESE ARE THINGS IN WHICH THE  
10 PARTIES HAVE AGREED TO PARTICULAR FACTS. AND THE  
11 PARTIES HAVE AGREED TO PARTICULAR FACTS AND YOU MAY  
12 ASSUME THEY ARE PROVED.

13 SO PART OF THE PURPOSE BEHIND READING  
14 TRIAL STIPULATION NUMBER ONE WAS TO GET INTO  
15 EVIDENCE A SERIES OF FINANCIAL RECORDS THAT THE  
16 GOVERNMENT HAD OBTAINED THROUGH ITS INVESTIGATION  
17 RELATED TO THE DEFENDANT'S CONDUCT.

18 AGENT FINE PROVIDED TESTIMONY WHICH WAS A  
19 FINANCIAL SUMMARY OF THE FINANCIAL RECORDS AND WE  
20 WILL SEE THAT LATER.

21 SO COUNT TWO IS BOB LIN'S SECOND \$100,000  
22 WIRE TRANSFER.

23 COUNT THREE IS A WIRE TRANSFER THAT BOB  
24 LIN SENT ON JULY 6, 2005.

25 COUNT FOUR RELATES TO ANOTHER INVESTOR,

1 MR. MARK VERDIELL. HE MADE A \$2 MILLION  
2 INVESTMENT, AND THAT \$2 MILLION INVESTMENT THERE  
3 WERE TWO WIRES RELATED TO THAT INVESTMENT. THE  
4 FIRST WIRE WAS A WIRE COMMUNICATION MEANING A  
5 COMMUNICATION BY WIRE THAT WAS SENT OUT ON BEHALF  
6 OF MR. VERDIELL, ESSENTIALLY DIRECTING THAT THE  
7 \$2 MILLION TRANSFER TAKE PLACE.

8 SO THE FIRST WIRE WAS THE COMMUNICATION  
9 DIRECTING THE \$2 MILLION TRANSFER. AND THAT TOOK  
10 PLACE APRIL 27TH, 2007.

11 THAT WIRE COMMUNICATION DIRECTING THE  
12 TRANSFER IS THE BASIS OF COUNT FOUR.

13 COUNT FIVE IS THE \$2 MILLION WIRE  
14 TRANSFER THAT FOLLOWED A COUPLE OF DAYS LATER AFTER  
15 THE WIRE, ESSENTIALLY DIRECTING THAT THE TRANSFER  
16 TAKE PLACE. AND THAT \$2 MILLION WIRE TRANSFER,  
17 THIS WAS AN INTERNATIONAL TRANSFER THAT WENT FROM  
18 THE UNITED STATES TO THE DEFENDANT'S ACCOUNTS IN  
19 SINGAPORE, TOOK PLACE ON APRIL 30TH, 2007.

20 COUNT 6 AND 7 RELATE TO BOB LIN. AND THE  
21 SEQUENCING OF WIRES HERE IS SOMEWHAT SIMILAR TO  
22 COUNTS 4 AND 5. IN THAT MR. LIN HAS A WIRE  
23 COMMUNICATION DIRECTING A \$250,000 WIRE TRANSFER.

24 AND THAT TOOK PLACE ON JUNE 19TH, 2007.  
25 LATER THAT DAY THE ACTUAL WIRE TRANSFER OF MONEY

1 GOES INTO EFFECT. SO THE SEVENTH WIRE TRANSFER OF  
2 MONEY, THAT'S COUNT SEVEN, THE DATE ON THAT IS  
3 JUNE 19, 2007.

4 SO THESE ARE THE SEVEN WIRES WHICH YOU  
5 WILL BE ASKED TO MAKE AN ASSESSMENT ON ABOUT  
6 WHETHER THE DEFENDANT IS GUILTY OF WIRE FRAUD.

7 THESE WEREN'T THE ONLY WITNESSES THAT YOU  
8 HEARD IN THE CASE THOUGH. AND THERE WERE OTHER  
9 INVESTORS THAT YOU HEARD IN THE CASE.

10 AND ONE OF THE INVESTORS WAS A WOMAN FROM  
11 TAIWAN NAMED GRACE DOONG. YOU HEARD HER TESTIMONY  
12 AND HER TESTIMONY ABOUT HOW HERSELF AND HER SISTER  
13 YU-MEI DOONG INVESTED MONEY WITH THE DEFENDANT.  
14 AND WE'VE TAKEN A PICTURE OF MS. DOONG THERE,  
15 MS. GRACE DOONG. AND YOU WILL HEAR AN INSTRUCTION  
16 ABOUT HOW YOU ARE TO CONSIDER MS. DOONG'S  
17 TESTIMONY.

18 THE GOVERNMENT DID NOT CHARGE ANY OF THE  
19 PARTICULAR WIRES THAT MS. DOONG SENT, HOWEVER, YOU  
20 CAN CONSIDER HER EVIDENCE AS ITS PUT FORWARD IN THE  
21 INSTRUCTION AS EVIDENCE OF THE DEFENDANT'S -- OF  
22 THE SCHEME TO DEFRAUD AND THE INTENT MOTIVE AND  
23 PLAN. AND AGAIN, THE INSTRUCTIONS THAT THE COURT  
24 GIVES YOU WILL CONTROL IN TERMS OF ASSESSING THE  
25 EVIDENCE.

1           SO THE GOVERNMENT HAS ALL THE BURDENS IN  
2           THIS CASE. IN ORDER TO OBTAIN A CONVICTION ON WIRE  
3           FRAUD, WE HAVE TO PROVE VARIOUS ELEMENTS, THE  
4           ELEMENTS OF WIRE FRAUD. AND I WANT TO WALK THROUGH  
5           BRIEFLY THESE ELEMENTS. AND AFTER THE PARTIES GIVE  
6           THEIR ARGUMENTS YOU WILL GET AN INSTRUCTION FROM  
7           THE JURY -- FROM THE JUDGE, AND THE JUDGE WILL  
8           INSTRUCT YOU ON THE ELEMENTS.

9           WE MUST PROVE EACH OF THESE. FIRST, WE  
10          HAVE TO PROVE THAT THE DEFENDANT ALBERT HU DEvised  
11          A SCHEME FOR OBTAINING MONEY BY MEANS OF FALSE OR  
12          FRAUDULENT PRETENSES, REPRESENTATIONS OR PROMISES.  
13          YOU MUST ALL AGREE ON AT LEAST ONE FALSE OR  
14          FRAUDULENT PRETENSE, REPRESENTATIONS OR PROMISES.

15          WE WILL SHORTLY BE GOING THROUGH THE 5 OR  
16          6 MAJOR FALSE PROMISES, PRETENSES, REPRESENTATIONS  
17          THAT ALBERT HU MADE TO INVESTORS TO GET THEM TO  
18          GIVE HIM MONEY. WE WILL SUBMIT THAT THIS IS  
19          EVIDENCE OF HIS INTENT TO DEFRAUD AND THAT THOSE  
20          FALSE STATEMENTS CAUSED WIRES.

21          THE FIRST ELEMENT WE HAVE TO PROVE IS HE  
22          MADE A FALSE FRAUDULENT PRETENSE, REPRESENTATION OR  
23          PROMISE.

24          IN ORDER TO CONVICT YOU MUST ALL AGREE ON  
25          AT LEAST ONE FALSE REPRESENTATION, PRETENSE OR

1 PROMISE. NOT THE ONLY ONE BUT YOU HAVE TO AGREE ON  
2 AT LEAST ONE. AS YOU WILL SEE WE WILL PRESENT  
3 EVIDENCE OF 5 OR 6, EACH OF WHICH WE WOULD  
4 RESPECTFULLY SUBMIT WOULD BE A BASIS FOR CONVICTION  
5 AND THERE'S EVIDENCE TO IT.

6 THE SECOND ELEMENT, THE GOVERNMENT HAS TO  
7 PROVE THAT THE DEFENDANT ALBERT HU KNEW THE  
8 PRETENSES, REPRESENTATIONS OR PROMISES THAT HE MADE  
9 WERE FALSE OR FRAUDULENT. WE WILL GET TO THAT.

10 THIRD, THE FALSE OR FRAUDULENT PRETENSES  
11 REPRESENTATIONS OR PROMISES HAVE TO BE MATERIAL.  
12 AND A FALSE OR FRAUDULENT REPRESENTATIONS OR  
13 PROMISES WERE MATERIAL IF THEY HAD A NATURAL  
14 TENDENCY TO INFLUENCE OR WAS CAPABLE OF INFLUENCING  
15 A POTENTIAL INVESTOR TO PART WITH MONEY. SO THE  
16 THIRD ELEMENT IS WE HAVE TO PROVE MATERIALITY.

17 THE FOURTH ELEMENT WE HAVE TO PROVE IS  
18 THAT THE DEFENDANT ALBERT HU ACTED WITH AN INTENT  
19 TO DEFRAUD. WHAT DOES THAT MEAN? WE HAVE TO PROVE  
20 THAT HE ACTED WITH AN INTENT TO DECEIVE OR CHEAT.  
21 THAT HE INTENDED TO DECEIVE OR CHEAT THE INVESTORS  
22 IN THIS CASE.

23 AND LASTLY, WE HAVE TO PROVE THAT THE  
24 DEFENDANT ALBERT HU USED OR CAUSED SOMEONE TO USE  
25 AND WE SUBMIT IN THIS CASE HE CAUSED BOB LIN AND



1 MARK VERDIELL TO USE AN INTERSTATE OR INTERNATIONAL  
2 WIRE.

3 SO WE ARE GOING TO WALK THROUGH EACH OF  
4 THESE ELEMENTS. AND THE STANDARD FOR CONVICTION IS  
5 PROOF BEYOND A REASONABLE DOUBT. THAT'S THE  
6 GOVERNMENT'S BURDEN IN THIS CASE. PROOF BEYOND A  
7 REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY  
8 CONVINCED THAT THE DEFENDANT IS GUILTY. FIRMLY  
9 CONVINCED.

10 SO IN WALKING THROUGH EACH OF THESE  
11 ELEMENTS YOU SHOULD ASK YOURSELF AM I FIRMLY  
12 CONVINCED THAT THE GOVERNMENT HAS PROVEN THAT THE  
13 DEFENDANT HAD AN INTENT TO DEFRAUD, FOR EXAMPLE.

14 IT IS NOT REQUIRED THAT THE GOVERNMENT  
15 PROVE GUILTY BEYOND ALL POSSIBLE DOUBT. REASONABLE  
16 DOUBT IS A STANDARD IN THIS CASE. YOU SHOULD  
17 CONSIDER THE EVIDENCE IN THIS CASE TO IN DECIDING  
18 WHETHER OR NOT THE GOVERNMENT HAS MET ITS BURDEN.

19 BUT PROVE BEYOND A REASONABLE DOUBT IS  
20 NOT PROOF BEYOND ALL DOUBT. IT IS A STANDARD  
21 THROUGHOUT THE COUNTRY THAT IS MET IN CASES EVERY  
22 DAY. A REASONABLE DOUBT IS DOUBT BASED UPON REASON  
23 AND COMMON SENSE AND IS NOT BASED PURELY ON  
24 SPECULATION, PARTICULARLY THE EVIDENCE, APPLY YOUR  
25 REASON AND COMMON SENSE.

1                   AND THIS IS A CASE IN WHICH THE  
2                   GOVERNMENT WOULD RESPECTFULLY SUBMIT THAT REASON  
3                   AND COMMON SENSE IS QUITE IMPORTANT IN TAKING A  
4                   LOOK AT THE EVIDENCE AND THE EVIDENCE OF THE  
5                   DEFENDANT'S SCHEME TO DEFRAUD.

6                   YOU SHOULD CONSIDER EACH ELEMENT OF WIRE  
7                   FRAUD SEPARATELY.

8                   SO LET'S TALK ABOUT THE FIRST ELEMENT WE  
9                   HAVE TO PROVE WHICH IS THAT THE DEFENDANT USED OR  
10                  CAUSED TO BE USED AN INTERSTATE OR INTERNATIONAL  
11                  WIRE. THE GOVERNMENT WOULD RESPECTFULLY SUBMIT  
12                  THAT WE HAVE PRESENTED EVIDENCE WHICH SHOULD PROVE  
13                  BEYOND A REASONABLE DOUBT, SHOULD LEAVE YOU FIRMLY  
14                  CONVINCED THAT THE DEFENDANT ALBERT HU CAUSED  
15                  INTERSTATE OR INTERNATIONAL WIRES TO BE SENT.

16                  DEFINITION OF A WIRE. A DEFENDANT USES  
17                  OR CAUSES SOMEONE TO USE INTERSTATE OR  
18                  INTERNATIONAL WIRES WHEN HE KNOWS OR REASONABLY  
19                  FORESEES IN THE ORDINARY COURSE OF BUSINESS THAT  
20                  ANY WRITING, SIGNAL OR SOUND WILL BE TRANSMITTED BY  
21                  MEANS OF WIRE, RADIO OR TELEVISION COMMUNICATION  
22                  FROM ONE STATE OR NATION TO ANOTHER.

23                  IT DOES NOT MATTER WHETHER THE MATERIAL  
24                  WIRE WAS ITSELF FALSE OR DECEPTIVE SO LONG AS THE  
25                  WIRES WERE USED AS PART OF THE SCHEME NOR THAT DOES

1 IT MATTER WHETHER THE SCHEME OR PLAN SUCCESSFUL OR  
2 THAT ANY MONEY OR PROPERTY WAS OBTAINED. WHAT  
3 MATTERS IS HE CAUSED A WIRE OR SENT A WIRE.

4 AND THE GOVERNMENT RESPECTFULLY SUBMITS  
5 THAT WE HAVE SUBMITTED EXTREMELY STRONG EVIDENCE  
6 THAT THE DEFENDANT ALBERT HU CAUSED INTERSTATE AND  
7 INTERNATIONAL WIRES TO BE SENT IN CONNECTION WITH  
8 THE SCHEME TO DEFRAUD.

9 JURY INSTRUCTION NUMBER FIVE READS, THE  
10 PARTY HAS AGREED TO CERTAIN STIPULATIONS OF FACT  
11 THAT HAVE BEEN READ TO YOU. YOU SHOULD THEREFORE  
12 TREAT THE FACTS IN THOSE STIPULATIONS AS HAVING  
13 BEEN PROVED.

14 THE PARTIES HAVE STIPULATED TO THE SEVEN  
15 WIRES IN THIS CASE. AND THERE IS A TRIAL  
16 STIPULATION THAT THE GOVERNMENT READ AT THE  
17 BEGINNING OF THIS CASE. IT'S TRIAL STIPULATION  
18 NUMBER TWO. IT LAYS OUT IN SOME DETAIL THE FACT  
19 THAT THERE WERE WIRES THAT WERE SENT. THESE ARE  
20 THE SEVEN WIRES THAT I TALKED TO YOU ABOUT FOR  
21 COUNTS 1 THROUGH 7. THE PARTIES HAVE AGREED THAT  
22 THOSE INTERSTATE AND INTERNATIONAL WIRES TOOK  
23 PLACE. THEY AGREED TO THAT FACT BEYOND A  
24 REASONABLE DOUBT.

25 THE GOVERNMENT WOULD SUBMIT THAT THIS IS

1 THE STRONG EVIDENCE THAT WE HAVE MET OUR BURDEN OF  
2 PROVING ONE OF THE FIVE ELEMENTS, WHICH IS THAT A  
3 WIRE WAS SENT OR CAUSED TO BE SENT.

4 IN ADDITION TO TRIAL STIPULATION NUMBER  
5 TWO WHICH TRACKS THE LANGUAGE THAT YOU WILL SEE IN  
6 THE INSTRUCTIONS IN THE VERDICT FORM IN TERMS OF  
7 DESCRIBING THE WIRES, THERE'S ADDITIONAL EVIDENCE  
8 THAT THE GOVERNMENT PRESENTED WHICH SHOWS BEYOND A  
9 REASONABLE DOUBT THAT THE DEFENDANT ALBERT HU  
10 CAUSED WIRES TO BE SENT IN BOTH INTERSTATE AND  
11 INTERNATIONAL COMMERCE.

12 YOU HEARD WITNESS TESTIMONY FROM VARIOUS  
13 INVESTORS, MR. LIN, MR. VERDIELL, THEY TESTIFIED  
14 THAT THEY WIRED MONEY. THEY DID SO AT THE  
15 DEFENDANT'S DIRECTION.

16 MR. VERDIELL TESTIFIED ABOUT HOW HE  
17 CONTACTED HIS BROKERS AS A PROCESS OF STARTING THE  
18 BALL ROLLING FOR HIS \$2 MILLION INVESTMENT. IT WAS  
19 THAT INITIAL CONTACT WITH THE BROKERS, THAT IS THE  
20 INITIAL WIRE COMMUNICATION, THAT SERVES AS COUNT  
21 FIVE.

22 THEN IT'S THE SUBSEQUENT WIRE WHERE THE  
23 \$2 MILLION IS SENT TO SINGAPORE THAT IS -- I'M  
24 SORRY. THE INITIAL MR. VERDIELL CONTACTING HIS  
25 BROKER GENERATES THE WIRE COMMUNICATION WHICH IS

1       COUNT FOUR, THAT'S THE ONE ON APRIL 27TH.   AND THEN  
2       A COUPLE DAYS LATER YOU HAVE THE WIRE COMMUNICATION  
3       THAT GOES TO SINGAPORE THE WIRE TRANSFER THAT GOES  
4       TO SINGAPORE AND THAT'S COUNT FIVE.

5               SO IN ADDITION TO THE TRIAL STIPULATION  
6       WE ALSO HAVE THE WITNESS TESTIMONY FROM MR. LIN AND  
7       MR. VERDIELL THAT MR. HU CAUSED WIRES.   WE ALSO  
8       HAVE DOCUMENTS WE WILL GO THROUGH IN WHICH MR. HU  
9       PROVIDES INVESTMENT DOCUMENTS TO THE INVESTORS.  
10      THOSE INVESTMENT DOCUMENTS THAT MR. HU SIGNS  
11      MEMORIALIZE THE FACT THAT THERE'S CERTAIN WIRES IT  
12      SAYS A TRANSFER OR MONEYS WERE WIRED IN OR WORDS TO  
13      THAT EFFECT.   MR. HU HIMSELF IS ACKNOWLEDGING TO  
14      INVESTORS THAT THE WIRES ARE TAKING PLACE.

15             THERE'S ALSO TESTIMONY, YOU HEARD  
16      FINANCIAL SUMMARY TESTIMONY FROM AGENT FINE THAT  
17      WIRES OF MONEY OCCURRED ON PARTICULAR DATES.

18             SO YOU HAVE THE STIPULATION, TESTIMONY  
19      FROM THE INVESTORS, THE DOCUMENT THAT IS MR. HU  
20      PROVIDED TO INVESTORS AND YOU HAVE THE FINANCIAL  
21      SUMMARY TESTIMONY FROM AGENT FINE.   THOSE ARE ALL  
22      PART OF THE VERY EXTREMELY STRONG EVIDENCE THAT THE  
23      DEFENDANT ALBERT HU CAUSED WIRES TO BE SENT IN  
24      INTERSTATE AND INTERNATIONAL COMMERCE.

25             SO WHAT'S THE SECOND ELEMENT OF WIRE

1 FRAUD. THE SECOND ELEMENT OF WIRE FRAUD IS THE  
2 GOVERNMENT HAS TO PROVE BEYOND A REASONABLE DOUBT,  
3 HAS TO LEAVE YOU FIRMLY CONVINCED THAT THE  
4 DEFENDANT MADE A FALSE REPRESENTATION OR PRETENSE  
5 OR PROMISE TO INVESTORS.

6 AND THE GOVERNMENT WOULD SUBMIT THAT THE  
7 EVIDENCE THAT THE DEFENDANT MADE A FALSE  
8 REPRESENTATION OR PROMISE OR PRETENSE TO INVESTORS  
9 IS OVERWHELMING AND IT'S OVERWHELMING AS TO SEVERAL  
10 DIFFERENT FALSE PROMISES, REPRESENTATIONS OR  
11 PRETENSES.

12 FIRST, EVIDENCE SHOWS THAT THE DEFENDANT  
13 MADE THE FALSE REPRESENTATION TO THE INVESTORS THAT  
14 THE FIRM CASTILLO, LYN, COHEN & VIJAY WAS AN  
15 INDEPENDENT AUDITOR FOR DEFENDANT HU'S ASENQUA BETA  
16 FUND, AND THE FIRESIDE LS FUND. THAT'S THE FIRST  
17 OF SEVERAL FALSE REPRESENTATIONS OR PROMISES THAT  
18 THE GOVERNMENT RESPECTFULLY SUBMITS HAS PRESENTED  
19 EVIDENCE BEYOND A REASONABLE DOUBT.

20 AND WE WILL WALK THROUGH THE SPECIFIC  
21 EVIDENCE FOR EACH OF THESE. THE SECOND FALSE  
22 REPRESENTATION THAT THE DEFENDANT MADE TO INVESTORS  
23 CAUSED THEM TO WIRE MONEY, WAS THAT AN INDIVIDUAL  
24 NAMED TONY POLLACE WAS THE CHIEF FINANCIAL OFFICER  
25 OF THE ASENQUA BETA FUND AND THE FIRESIDE LS FUND

1 AND THAT THIS INDIVIDUAL, MR. POLLACE, HAD SIGNED  
2 OFF ON QUARTERLY FINANCIAL STATEMENTS.

3 THIS IS FALSE REPRESENTATION NUMBER TWO.

4 FALSE REPRESENTATION NUMBER THREE. HU  
5 TOLD INVESTORS, DOCUMENTS HE SUBMITTED, HE PROVIDED  
6 TO INVESTORS, THAT THE LAW FIRM OF PROSKAUER ROSE,  
7 LLP WAS ENGAGED IN LEGAL COUNSEL FOR HU'S FIRESIDE  
8 LS FUND.

9 FALSE REPRESENTATION NUMBER FOUR, THAT  
10 THE GLOBEOP FINANCIAL SERVICES WAS THE FUND  
11 ADMINISTRATOR FOR THE FIRESIDE LS FUND.

12 FALSE REPRESENTATION NUMBER FIVE, IS THAT  
13 THE MINIMUM AMOUNT INDIVIDUALS WERE INVESTING IN  
14 THE FIRESIDE LS FUND WAS A MILLION DOLLARS.

15 AND THE SIXTH FALSE REPRESENTATION THAT  
16 THE DEFENDANT MADE TO INVESTORS WHICH CAUSED THEM  
17 TO WIRE THE MONEY THAT WAS HE WOULD PAY INVESTORS A  
18 20 TO 30 PERCENT ANNUAL RETURN. AND HE WOULD PAY  
19 THIS RETURN BY INVESTING THEIR FUNDS IN TECHNOLOGY  
20 RELATED SECURITIES.

21 FALSE REPRESENTATION NUMBER ONE. THE  
22 DEFENDANT TOLD INVESTORS ABOUT A FIRM NAMED  
23 CASTILLO, LYN, COHEN & VIJAY. HE TOLD INVESTORS  
24 THAT THE INDEPENDENT AUDITING FIRM OF CASTILLO,  
25 LYN, COHEN & VIJAY HAD SIGNED OFF ON THE BOOKS FOR

1 THE ASENQUA BETA AND THE FIRESIDE LS FUND.

2 HE GAVE INVESTORS DOCUMENTS THAT WERE  
3 PURPORTEDLY CREATED BY THIS FIRM AND IT'S CPA JUN  
4 CASTILLO.

5 AND THIS IS A SLIDE, WE WILL SHOW YOU  
6 PORTIONS OF THE DOCUMENTS ADMITTED INTO EVIDENCE.  
7 GOVERNMENT EXHIBIT 1. SEVERAL WITNESSES COMMENTED  
8 THAT THEY HAD RECEIVED THIS DOCUMENT IT WAS ONE  
9 ALBERT HU PROVIDED THEM THAT IT INFLUENCED THEIR  
10 DECISION TO INVEST AND WIRE MONEY TO ALBERT HU.

11 YOU SEE AT THE TOP OF GOVERNMENT  
12 EXHIBIT 1, IT'S THE DOCUMENT THAT ALBERT HU  
13 PROVIDED INVESTORS. IT SAYS CASTILLO, LYN, COHEN &  
14 VIJAY, REPORT OF THE INDEPENDENT AUDITORS, TO THE  
15 LIMITED PARTNERS OF ASENQUA BETA. "WE HAVE AUDITED  
16 THE FINANCIAL STATEMENTS OF ASENQUA BETA FUND, "THE  
17 FUND" FOR THE YEAR END DECEMBER 31ST, 2004 WHICH  
18 COMPRISE THE BALANCE SHEET STATEMENTS OF ACCOUNT  
19 AND RELATED NOTES 1 TO 4. IT IS OUR RESPONSIBILITY  
20 TO FORM AN INDEPENDENT OPINION BASED ON OUR AUDIT  
21 OF THOSE FINANCIAL STATEMENTS."

22 BOTTOM OF THIS DOCUMENT THAT THE  
23 DEFENDANT PROVIDED TO INVESTORS SAYS, IN OUR  
24 OPINION, THE FINANCIAL STATEMENTS REFERRED TO ABOVE  
25 PRESENT FAIRLY, IN ALL MATERIAL RESPECTS, THE



1 FINANCIAL POSITION OF THE FUND AS OF DECEMBER 31ST,  
2 2004 AND THE RESULT OF ITS OPERATIONS, ITS CASH  
3 FLOWS AND THE CHANGES IN ITS EQUITY FOR THE YEAR  
4 THAT ENDED IN ACCORDANCE WITH INTERNATIONAL  
5 FINANCIAL REPORTING STANDARDS.

6 AND THERE'S A NAME THERE AND A SIGNATURE,  
7 JUN CASTILLO CPA, JANUARY 10TH, 2005. AND YOU WILL  
8 HAVE ACCESS TO ALL THE EXHIBITS WHEN YOU ARE  
9 DELIBERATING. IF YOU LOOK, THERE'S AN ADDRESS AT  
10 THE BOTTOM FOR THE CASTILLO, LYN, COHEN & VIJAY IT  
11 SAYS ONE EMBARCADERO CENTER IN SAN FRANCISCO.

12 THAT DOCUMENT, GOVERNMENT EXHIBIT 1, WAS  
13 NOT THE ONLY TIME IN WHICH THE DEFENDANT ALBERT HU  
14 PROVIDED DOCUMENTS TO INVESTORS REPRESENTING THAT  
15 THE AUDITING FIRM OF CASTILLO, LYN WAS LOOKING  
16 AFTER THE BOOKS OF HIS FUNDS.

17 THIS IS GOVERNMENT EXHIBIT 12. A  
18 CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM THAT THE  
19 DEFENDANT ALBERT HU PROVIDED TO INVESTOR MARK  
20 VERDIELL.

21 WHO DID ALBERT HU LIST AS THE AUDITOR OF  
22 THE FIRESIDE LS FUND? YOU SEE CASTILLO, LYN, COHEN  
23 & VIJAY.

24 YOU HEARD TESTIMONY FROM THE INVESTORS  
25 THAT THESE STATEMENTS, THESE DOCUMENTS ABOUT

1 CASTILLO, LYN, COHEN & VIJAY, THE STATEMENTS IN  
2 THESE DOCUMENTS WAS A REASON THAT LEAD THEM TO  
3 INVEST MONEY TO ENTRUST ALBERT HU WITH MILLIONS OF  
4 DOLLARS.

5 UNFORTUNATELY, THE REALITY IS THAT  
6 CASTILLO, LYN, COHEN & VIJAY WAS NOT INDEPENDENT.  
7 IT WAS NOT AN INDEPENDENT AUDITING FIRM. FIRST OF  
8 ALL, IT WASN'T INDEPENDENT. HOW DO YOU KNOW THIS?  
9 THE EVIDENCE SHOWS THAT ALBERT HU PAID FOR THE  
10 CASTILLO, LYN OFFICE SPACE WITH HIS OWN CREDIT  
11 CARD.

12 AGENT FINE'S FINANCIAL ANALYSIS SHOWS  
13 ALBERT HU SENDING MONEY TO PAY FOR THE CASTILLO,  
14 LYN OFFICE SPACE. HE ACTUALLY TAKES MONEY FROM AN  
15 INVESTOR WITHOUT THEIR PERMISSION AND HE USES THAT  
16 MONEY TO PAY FOR THE CASTILLO, LYN OFFICE SPACE.

17 AND ALSO, YOU WILL SEE THAT TRIAL  
18 STIPULATION NUMBER THREE, THE PARTIES HAVE AN  
19 AGREEMENT ABOUT THAT THE DEFENDANT ALBERT HU,  
20 PARTIES AGREE BEYOND A REASONABLE DOUBT THAT THE  
21 DEFENDANT ALBERT HU WAS THE ACCOUNT HOLDER FOR THE  
22 PARTICULAR CREDIT CARD NUMBER THAT YOU SEE ON THE  
23 CASTILLO LYN OFFICE SPACE RENTAL.

24 THIS IS GOVERNMENT EXHIBIT 19. THIS IS A  
25 DOCUMENT THAT'S INTRODUCED INTO EVIDENCE. YOU MAY

1 RECALL THERE WAS TESTIMONY FROM A MR. SZTO AND  
2 JEANIQUE COOK WHO WERE INDIVIDUALS THAT WORKED AS A  
3 COMPANY CALLED REGIS A COMPANY THAT DEALS WITH  
4 CREATING VIRTUAL OFFICES. THIS WAS A DOCUMENT THAT  
5 WAS PRESENTED TO THEM.

6 THE COMPANY NAME CASTILLO, LYN, COHEN &  
7 VIJAY. THE ADDRESS, ONE EMBARCADERO CENTER, SUITE  
8 500, SAN FRANCISCO. THE SAME ADDRESS ON GOVERNMENT  
9 EXHIBIT 1, THE DOCUMENT THAT'S PURPORTEDLY THE  
10 INDEPENDENT ASSESSMENT OF THE RECORDS OF THE  
11 ASENQUA BETA FUND.

12 WHOSE NAME IS ON THIS IN TERMS OF WHO IS  
13 PAYING FOR THIS SPACE, WHO IS PAYING FOR THE SPACE  
14 OF CASTILLO LYN? ALBERT HU, HIS SIGNATURE IS ON IT  
15 AS WELL DATED AUGUST 7, 2006.

16 THERE'S ALSO INVOICES YOU SAW THAT GO  
17 BACK BEFORE THEN, SHOW THAT THERE WERE PAYMENTS  
18 MADE BEFORE THEN. WHOSE CREDIT CARD ON THERE? THE  
19 NUMBER LISTED THERE ON GOVERNMENT EXHIBIT 19.  
20 COMPARE THAT TO TRIAL STIPULATION NUMBER THREE,  
21 IT'S THE SAME CREDIT CARD NUMBER.

22 PARTIES HAVE AGREED BEYOND A REASONABLE  
23 DOUBT THAT THAT CREDIT CARD NUMBER, THAT CREDIT  
24 CARD NUMBER ON GOVERNMENT EXHIBIT 19 THAT CREDIT  
25 CARD NUMBER IS ALBERT HU'S CREDIT CARD NUMBER. HE

1 PAID FOR THE CASTILLO LYN SPACE, IT WASN'T AN  
2 INDEPENDENT AUDITING FIRM.

3 IN ADDITION TO THE CASTILLO LYN FIRM NOT  
4 BEING AN INDEPENDENT AUDITING FIRM, THE EVIDENCE  
5 HAS SHOWN IT DID NOT EVEN EXIST AS AN AUDITING FIRM  
6 AT ALL.

7 HOW DO YOU KNOW THIS? EVIDENCE AT TRIAL  
8 SHOWS THERE'S NO RECORD OF A CASTILLO, LYN, COHEN &  
9 VIJAY AUDITING FIRM EVER EXISTING IN CALIFORNIA.  
10 THERE'S NO RECORDS OF A CASTILLO, LYN, COHEN &  
11 VIJAY AUDITING FIRM OR JUN CASTILLO, CPA.

12 YOU HEARD TESTIMONY FROM TWO WITNESSES.  
13 DOMINIC FRANZELLA, HE WAS A WITNESS FROM THE  
14 CALIFORNIA BOARD OF ACCOUNTANCY THIS WAS AN ENTITY  
15 THAT ONE OF ITS RESPONSIBILITIES IS TO WORK TO  
16 PROTECT THE PUBLIC BY SEEKING TO MAKE SURE THAT  
17 PEOPLE WHO HAVE LICENSES, LICENSED IF THEY ARE  
18 GOING TO BE PRACTICING ACCOUNTING IN THE STATE OF  
19 CALIFORNIA.

20 HE PROVIDED TESTIMONY ABOUT THEIR RECORDS  
21 ABOUT PEOPLE WHO WERE TO PROVIDE ACCOUNTING OR  
22 AUDITING SERVICES WOULD BE REQUIRED TO REGISTER  
23 WITH THE CALIFORNIA BOARD OF ACCOUNTANCY.  
24 MR. FRANZELLA TESTIFIED HE DID A SEARCH THROUGH THE  
25 RECORDS, THERE'S NO INDICATIONS THAT THE CASTILLO,

1 LYN, COHEN & VIJAY EVER EXISTED AS AN AUDITING FIRM  
2 IN CALIFORNIA.

3 HE ALSO LOOKED FOR A JUN CASTILLO -- THE  
4 PURPOSE OF THE CALIFORNIA BOARD OF ACCOUNTANCY IS  
5 TO SERVE AS A LICENSING AND REGISTRATION FUNCTION  
6 FOR PEOPLE WHO WANT TO DO ACCOUNTING OR AUDITING  
7 SERVICES IN THE STATE OF CALIFORNIA. IT'S TO  
8 PROTECT THE PUBLIC BY MAKING SURE THAT YOU DON'T  
9 HAVE A LOT OF UNLICENSED PEOPLE OUT THERE  
10 PRACTICING ACCOUNTING.

11 IF YOU HAVE AN INDEPENDENT AUDITING FIRM  
12 IN CALIFORNIA AND YOU ARE PLAYING BY THE RULES, YOU  
13 REGISTER AND YOU WOULD SHOW UP ON THE RECORDS OF  
14 THE CALIFORNIA BOARD OF ACCOUNTANCY.

15 CASTILLO LYN DID NOT. JUN CASTILLO DID  
16 NOT REGISTER. THE PERSON WHOSE SIGNATURE WAS ON  
17 THAT DOCUMENT DOES NOT REGISTER ON THE CALIFORNIA  
18 BOARD OF ACCOUNTANCY.

19 WHAT CAN YOU INFER FROM THAT? WE WOULD  
20 SUBMIT YOU COULD INFER THAT CASTILLO, LYN, COHEN &  
21 VIJAY NEVER EXISTED, THAT JUN CASTILLO IS NOT A CPA  
22 WHO WORKED FOR CASTILLO, LYN, COHEN & VIJAY. THAT  
23 THIS ENTIRE CASTILLO, LYN, COHEN & VIJAY AUDITING  
24 FIRM WAS NOT AN INDEPENDENT AUDITING FIRM, THAT IN  
25 FACT WAS A FABRICATION THAT THE DEFENDANT ALBERT HU

1       CREATED IN AN ATTEMPT TO LURE INVESTORS TO ENTRUST  
2       THEM WITH THEIR MONEY AND TO WIRE THEM MONEY.

3               YOU ALSO HEARD TESTIMONY FROM A WOMAN  
4       NAMED LYNETTE DWORKIN, SHE WORKED FOR THE  
5       CALIFORNIA EDD. THIS IS AN ENTITY IF YOU HAVE A  
6       BUSINESS AND YOU HAVE PEOPLE WHO ARE EMPLOYEES OF  
7       THE BUSINESS AND THEY PAY TAXES, THAT MONEY, SHE  
8       TESTIFIED THAT MONEY GOES TO CALIFORNIA EDD.

9               SO IF CASTILLO, LYN, COHEN & VIJAY  
10       ACTUALLY EVER EXISTED AS AN INDEPENDENT ACCOUNTING  
11       FIRM AS ALBERT HU REPRESENTED TO INVESTORS, THERE  
12       WOULD BE SOME SORT OF CALIFORNIA EDD RECORDS  
13       RELATED TO A CASTILLO, LYN, COHEN & VIJAY.

14              THERE WEREN'T. WHY WERE THERE NO SUCH  
15       RECORDS? WE WOULD SUBMIT BECAUSE CASTILLO, LYN,  
16       COHEN & VIJAY NEVER EXISTED. IT'S A FABRICATION, A  
17       SHAM THAT THE DEFENDANT CREATED IN AN ATTEMPT TO  
18       DEFRAUD PEOPLE TO DECEIVE OR CHEAT PEOPLE TO GIVE  
19       HIM MONEY.

20              FALSE REPRESENTATION NUMBER TWO,  
21       DEFENDANT ALBERT HU TOLD INVESTORS THAT ANTHONY  
22       POLLACE WAS THE CFO OF HIS COMPANIES, THAT HU TOLD  
23       INVESTORS THAT ANTHONY POLLACE WAS THE CHIEF  
24       FINANCIAL OFFICER OF THE ASENQUA BETA FUND AND THE  
25       FIRESIDE LS FUND AND THAT ANTHONY POLLACE HAD

1 SIGNED OFF ON THOSE FINANCIAL STATEMENTS.

2 AND YOU WILL SEE THIS IN A NUMBER OF  
3 DIFFERENT CONTEXTS. THERE'S QUARTERLY STATEMENTS  
4 FROM MR. MARK VERDIELL. ON THIS QUARTERLY  
5 STATEMENT, IT'S HARD TO SEE BUT YOU CAN HAVE THIS  
6 EXHIBIT GOVERNMENT EXHIBIT 18, YOU WILL SEE MR. HU  
7 HIMSELF IS ACKNOWLEDGING ON 4-30-2007 TWO MILLION  
8 DOLLARS IS WIRED IN. THIS IS ADDITIONAL EVIDENCE  
9 THAT THE WIRE TOOK PLACE.

10 THIS IS A DOCUMENT THAT MR. VERDIELL  
11 TESTIFIED WAS PRESENTED TO HIM BY ALBERT HU.  
12 ALBERT HU GAVE HIM THIS DOCUMENT. WHOSE SIGNATURE  
13 IS ON THIS DOCUMENT? ANTHONY POLLACK. SUPPOSED TO  
14 BE ANTHONY POLLACE AND ALBERT HU PHD.

15 YOU WILL SEE ON THE DOCUMENTS THE POLLACE  
16 NAME, THE FIRST NAME IS WRITTEN DOWN AS TONY  
17 POLLACE. YOU SEE THIS SIGNATURE, THIS POLLACE  
18 SIGNATURE ON A LOT OF THE OTHER DOCUMENTS,  
19 QUARTERLY STATEMENTS TO BOB LIN. YOU SEE HERE  
20 THESE ARE THE TWO MONEY TRANSFERS REFLECTED ON THIS  
21 DOCUMENT.

22 THIS IS THE SIGNATURE POLLACK, IT'S  
23 SLIGHTLY DIFFERENT. WE WILL SUBMIT THE FACT THAT  
24 THIS NAME CHANGES IS EVIDENCE THAT THE DEFENDANT  
25 THAT WAS SUBMITTING DOCUMENTS THAT CONTAINED A

1 FORGED SIGNATURE.

2 BOB LIN EVENTUALLY SUBMITS A WITHDRAWAL  
3 FORM TO SEE IF HE CAN GET HIS MONEY BACK. ALBERT  
4 HU PROVIDES HIM A DOCUMENT INDICATING THAT HE'S  
5 GOING TO GET HIS MONEY BACK. WHOSE SIGNATURE IS  
6 SUPPOSED TO BE ON THIS DOCUMENT? ALBERT HU AND  
7 SUPPOSEDLY TONY POLLACE, CHIEF FINANCIAL OFFICER.

8 GRACE DOONG, ANOTHER WITNESS, ALSO  
9 ANOTHER INVESTMENT IN THE AQC FUND. ANTHONY  
10 POLLACE SIGNATURE, ALBERT HU SIGNATURE ALSO ON THIS  
11 DOCUMENT. WITHDRAWAL DOCUMENTS, QUARTERLY  
12 STATEMENTS FROM YU-MEI DOONG. THIS IS GRACE  
13 DOONG'S SISTER, ALBERT HU IS ALSO SUBMITTING  
14 DOCUMENTS TO GRACE DOONG'S SISTER STATING ANTHONY  
15 POLLACE IS THE CHIEF FINANCIAL OFFICER FROM THE  
16 FIRESIDE LS FUND. DOING THIS AGAIN AND AGAIN AND  
17 AGAIN.

18 WITHDRAWAL FORM REPRESENTING THAT --  
19 ACTUALLY, LET ME -- AND I SKIPPED SOMETHING HERE.  
20 ONE IMPORTANT FACTOR ON THE WITHDRAWAL FORM FOR  
21 GRACE DOONG. YOU MAY RECALL HER TESTIMONY. IF YOU  
22 LOOK AT THE DOCUMENT YOU SEE THERE ARE TWO  
23 SIGNATURES ABOVE ALBERT HU. NOT ONE, BUT TWO,  
24 THERE'S ONLY ONE FOR ANTHONY POLLACE. BUT THERE  
25 ARE TWO SIGNATURES FOR ALBERT HU. AND YOU MAY



1 RECALL THAT MS. DOONG TESTIFIED ABOUT WHY SHE DID  
2 THIS. SHE WAS HAVING CONCERNS ABOUT WHAT WAS GOING  
3 ON WITH HER INVESTMENTS THAT SHE WAS TROUBLED BY  
4 IT. AND WHAT DID SHE DO SHE WAS GETTING SOMEWHAT  
5 DESPERATE AT THIS POINT AND SHE GOES TO ALBERT HU  
6 AND SAYS, I WANT YOU TO SIGN THIS DOCUMENT IN MY  
7 PRESENCE.

8 NOW A SECOND SIGNATURE THERE, ESSENTIALLY  
9 SHE'S SAYING I WANT TO BE SURE I CAN GET MY MONEY  
10 BACK I WANT YOU TO SIGN THIS DOCUMENT IN MY  
11 PRESENCE. HE DOES. YOU SEE HIS SIGNATURE.

12 AT THE END OF THE DAY UNFORTUNATELY FOR  
13 GRACE DOONG, SHE NEVER GETS HER MONEY BACK. BUT  
14 THAT'S ONE OF THE SIGNIFICANCE OF THIS DOCUMENT  
15 WITH THE TWO SIGNATURES. IT'S AN INDICATION OF HOW  
16 MR. HU WAS BEHAVING THAT HE WAS ENGAGING WITH AN  
17 INTENT TO DEFRAUD AND DECEIVE AND CHEAT.

18 MORE DOCUMENTS THAT SHOW A SIGNATURE FROM  
19 MR. POLLACE.

20 SO MR. HU IS REPRESENTING TO INVESTORS  
21 THAT ANTHONY POLLACE IS THE CFO OF THE COMPANY AND  
22 HE'S SIGNING OFF ON THE DOCUMENTS.

23 ONE OTHER THING ABOUT THE DOCUMENTS.  
24 THESE DOCUMENTS ALSO INDICATE THE QUARTERLY  
25 STATEMENTS THAT THE FUNDS WILL PROVIDE TAX

1 DOCUMENTS TO PEOPLE. AND AS YOU SEE LATER IN THE  
2 CASE OF MR. VERDIELL THAT TURNED OUT NOT TO BE THE  
3 CASE. THE GOVERNMENT SUBMITS THAT'S FURTHER  
4 EVIDENCE THAT THIS ENTIRE THING WAS A FRAUD THAT  
5 ALBERT HU WAS NOT ENGAGING IN GOOD FAITH, HE'S NOT  
6 RUNNING THE BUSINESS IN GOOD FAITH, THAT WAS AN  
7 ATTEMPT TO TAKE MONEY FROM PEOPLE.

8 SO ALBERT HU REPRESENTED TO INVESTORS  
9 THAT ANTHONY POLLACE WAS THE CFO, AND BASED ON  
10 THOSE MISSTATEMENTS, HE GETS THE INVESTORS TO WIRE  
11 MONEY.

12 THE INVESTORS TESTIFIED THIS WAS A FACT  
13 THAT'S IMPORTANT TO THEM. THE REALITY, HOWEVER,  
14 UNFORTUNATELY TO THE INVESTORS IS DIFFERENT.  
15 ANTHONY POLLACE DID NOT SIGN THOSE DOCUMENTS AND  
16 WAS NEVER THE CFO FOR HU'S HEDGE FUNDS.

17 HOW DO YOU KNOW THIS? MR. POLLACE  
18 TESTIFIED, TESTIFIED MONDAY IN THE AFTERNOON,  
19 TESTIFIED HE NEVER SIGNED ANY OF THOSE DOCUMENTS.  
20 HE WENT THROUGH A LOT OF THEM. THERE ARE DOZENS OF  
21 THOSE DOCUMENTS THAT CONTAIN A SIGNATURE, HE  
22 TESTIFIED HE NEVER SIGNED ANY OF THEM.

23 WHAT CAN YOU INFER FROM THIS? YOU CAN  
24 INFER THAT ALBERT HU IS SUBMITTING DOCUMENTS TO  
25 INVESTORS THAT CONTAINED HIS SIGNATURE AND

1       CONTAINED A FORGED SIGNATURE OF A CFO.   AND THAT'S  
2       VERY STRONG EVIDENCE YOU CAN KEEP IN MIND ABOUT  
3       WHETHER THIS ENTIRE EXERCISE WAS A SCHEME TO  
4       DEFRAUD.

5               MR. POLLACE TESTIFIED HE WAS NEVER THE  
6       CFO FOR THE ASENQUA BETA FUND AND THE FIRESIDE LS  
7       FUND.   MR. POLLACE WAS -- DID TESTIFY THAT HE WAS  
8       THE CFO FOR A TIME FOR A COMPANY CALLED, I BELIEVE  
9       IT WAS APLEX WHICH WAS A SEMICONDUCTOR COMPANY, IT  
10      WAS A TECHNICAL COMPANY, IT WASN'T A FINANCIAL  
11      COMPANY.   HE WAS CFO FOR A SHORT PERIOD OF TIME.  
12      BUT HE WAS NEVER THE CFO FOR ANY OF THE INVESTMENT  
13      FUNDS OR FOR ASENQUA.

14             MR. POLLACE TESTIFIED THAT ALBERT HU  
15      ASKED HIM TO BE THE CFO FOR ASENQUA AND THAT  
16      MR. POLLACE TURNED IT DOWN.

17             THE EVIDENCE SHOWS THAT THAT DIDN'T DETER  
18      MR. HU, THAT HE MADE A CONSCIENCE DECISION TO JUST  
19      TAKE MR. POLLACE'S NAME AND PUT IT ON DOCUMENTS TO  
20      FALSELY REPRESENT TO INVESTORS THAT MR. POLLACE WAS  
21      THE CFO OF HIS FUNDS, TO SUBMIT DOCUMENTS TO  
22      INVESTORS THAT CONTAINED NOT ONLY MR. HU'S  
23      SIGNATURE BUT THE FORGED SIGNATURE OF ANTHONY  
24      POLLACE.

25             HOW DO YOU KNOW IT WAS FORGED?   WELL,

1 FIRST OF ALL, YOU KNOW BECAUSE MR. POLLACE  
2 INDICATED TO YOU HE DIDN'T SIGN THE DOCUMENTS. USE  
3 YOUR REASON AND COMMON SENSE HERE. HE ALSO  
4 INDICATED THAT DOES NOT HAVE A PRACTICE OF PEOPLE  
5 ALLOWING TO SIGN DOCUMENTS WITHOUT HIS KNOWLEDGE  
6 AND PERMISSION. AND WHO WOULD DO SOMETHING LIKE  
7 THAT?

8 MR. POLLACE ALSO TESTIFIED HE HAS BEEN A  
9 CFO, DOES HAVE BUSINESS RELATIONSHIPS IN SILICON  
10 VALLEY. ALSO YOU HEARD TESTIMONY FROM  
11 WENDY ESPINOZA, SHE'S A WITNESS WITH THE DMV AND  
12 AUTHORIZED CERTAIN RECORDS.

13 WE INTRODUCED EXHIBIT 260. THIS IS  
14 MR. POLLACE'S SIGNIFICANT. IN ADDITION TO HIS  
15 TESTIMONY, THIS WASN'T A SIGNATURE, THIS SHOWS HIS  
16 SIGNATURE OR THE COURSE OF TWO DECADES. IT'S VERY  
17 CONSISTENT HE KEEPS SIGNING HIS NAME A.V. POLLACE.  
18 THAT'S THE SIGNATURE HE GAVE TO THE DMV FOR OVER  
19 TWO DECADES, AND CORROBORATES HIS TESTIMONY THAT HE  
20 DIDN'T SIGN THE DOCUMENTS. IF YOU LOOK AT ALL THE  
21 DOCUMENTS, HIS NAME IS SIGNED TONY POLLACE. HE  
22 INDICATED HE DOESN'T SIGN DOCUMENTS THAT WAY.

23 YOU ALSO HEARD TESTIMONY FROM MR. POLLACE  
24 THAT HE WAS IN FACT A CFO AND HE DOES WORK IN  
25 SILICON VALLEY AND YOU SEE -- I THINK THE

1 GOVERNMENT RESPECTFULLY SUBMITS THAT YOU MIGHT BE  
2 SEEING A PATTERN HERE OF THE DEFENDANT SEEKING TO  
3 ASSOCIATE HIS FUNDS WITH REPUTABLE ENTITIES IN  
4 ORDER TO SORT OF LEND AN IMPRIMATUR THAT HIS FUNDS  
5 WERE A GOOD INVESTMENT.

6 THE PROBLEM IS THAT HE'S DEFRAUDING THESE  
7 INVESTORS, HE'S DECEIVING THEM AND CHEATING THEM BY  
8 PUTTING ASSOCIATIONS THAT DON'T REALLY EXIST.

9 FALSE REPRESENTATION NUMBER THREE. THE  
10 FIRST IS CASTILLO, LYN, COHEN & VIJAY. THE SECOND  
11 IS TONY POLLACE. THE THIRD IS THAT THE LAW FIRM OF  
12 PROSKAUER ROSE, LLP.

13 THE DEFENDANT TOLD INVESTORS THAT THE  
14 PROMINENT GLOBAL LAW FIRM, PROSKAUER ROSE, WAS  
15 ENGAGED AS LEGAL COUNSEL FOR THE FIRESIDE LS FUND.

16 HOW DOES HE DO THIS? GOVERNMENT  
17 EXHIBIT 5. THE DOCUMENT THAT YOU HEARD TESTIMONY  
18 ABOUT FROM BOB LIN. FIRESIDE LS FUND, FUND  
19 SUBSCRIPTION BOOKLET FOR NON U.S. INVESTORS AND TAX  
20 EXEMPT INVESTORS.

21 THIS IS A DOCUMENT ALBERT HU PROVIDED TO  
22 INVESTORS. THE DOCUMENT INVESTORS RELIED ON IN  
23 WIRING HIM MONEY.

24 WHAT DID ALBERT HU PUT IN THIS DOCUMENT?  
25 LEGAL REPRESENTATION, WAIVER OF CONFLICTS. THE

1 INVESTOR UNDERSTANDS THAT PROSKAUER ROSE, PROSKAUER  
2 HAS BEEN ENGAGED TO ACT AS LEGAL COUNSEL TO THE  
3 FUND, THE INVESTMENT MANAGER, THE ORDINARY  
4 SHAREHOLDER AND THE MASTER FUND, COLLECTIVELY, THE  
5 FUND AFFILIATED GROUP.

6 PROSKAUER ROSE IS A PROMINENT LAW FIRM.  
7 YOU HEARD FROM TWO REPRESENTATIVES OF PROSKAUER  
8 ROSE. DERRICK ARTHUR WHO IS THE PROSKAUER ROSE  
9 RECORDS MANAGER, THE INDIVIDUAL WHOSE PICTURE IS ON  
10 THE LEFT, THE INDIVIDUAL WHO ACTUALLY HAS ALMOST  
11 30 YEARS OF EXPERIENCE IN THE FIELD OF LAW FIRM  
12 RECORDKEEPING AND HE TESTIFIED THAT HE WAS  
13 CONTACTED BY THE GOVERNMENT AND DID A SEARCH OF  
14 PROSKAUER ROSE RECORDS WHICH GO BACK DECADES, I  
15 THINK THEY GO BACK TO THE 30'S OR 40'S. PROSKAUER  
16 ROSE, YOU HEARD TESTIMONY THAT PROSKAUER ROSE IS A  
17 PROMINENT LAW FIRM OVER A HUNDRED YEARS OLD, HAS A  
18 GLOBAL PRACTICE. IT HAS A BRAND. SOMETHING THAT  
19 COULD POTENTIALLY CAUSE INVESTORS TO WANT TO INVEST  
20 IN THE FUND THAT WAS AFFILIATED WITH PROSKAUER  
21 ROSE.

22 THE PROBLEM IT TURNS OUT, THE REALITY IS  
23 THAT PROSKAUER ROSE WAS NEVER LEGAL COUNSEL FOR HU  
24 OR ANY OF HIS FUNDS. DERRICK ARTHUR SEARCHED THE  
25 RECORDS. THERE'S NO INDICATION WHATSOEVER THAT

1 ALBERT HU WAS EVER, OR ANY OF HIS FUNDS, ASENQUA,  
2 FIRESIDE, WAS EVER OR HAD EVER RETAINED PROSKAUER.

3 AND IF WHAT ALBERT HU TOLD INVESTORS WAS  
4 TRUE, THAT PROSKAUER ROSE WOULD HAVE BEEN RETAINED  
5 IT WOULD HAVE BEEN IN THE RECORDS, IT WASN'T. SO  
6 ANOTHER FALSE REPRESENTATION.

7 LARY RAPPAPORT, THE PROSKAUER EQUITY  
8 PARTNER, TOOK ADDITIONAL STEPS THAT PROSKAUER HAD  
9 NEVER BEEN RETAINED BY ALBERT HU. HE SENT THE  
10 OFFICE AN E-MAIL ASKING THE ENTIRE FIRM --  
11 ESSENTIALLY, HE ASKED THEM ANY INDICATIONS OF  
12 ALBERT HU AND ANY OF THESE ENTITIES WERE RETAINED,  
13 THE ANSWER WAS NO. HE SEARCHED THE DOCUMENT  
14 MANAGEMENT SOFTWARE WITH PROSKAUER, NO RECORDS  
15 INDICATING THAT ALBERT HU OR ASENQUA OR FIRESIDE  
16 WERE EVER CLIENTS OF THE FIRM.

17 FALSE REPRESENTATION NUMBER FOUR. THE  
18 HEDGE FUND'S GLOBAL ADMINISTRATOR, GLOBEOP.

19 HU TOLD INVESTORS THAT THE GLOBEOP  
20 FINANCIAL SERVICES WAS THE FUND ADMINISTRATOR FOR  
21 THE FIRESIDE LS FUND.

22 HOW DID HE DID ON THAT? THIS IS, AGAIN,  
23 GOVERNMENT EXHIBIT 12 THE DOCUMENT PROVIDED THAT HU  
24 PREPARED PROVIDED TO INVESTORS.

25 IT SAYS FIRESIDE LS FUND CONFIDENTIAL

1 PRIVATE PLACEMENT MEMORANDUM, ADMINISTRATOR. THE  
2 GLOBEOP FINANCIAL SERVICES LLC THE ADMINISTRATOR  
3 HAS BEEN RETAINED BY THE FUND AND THE MASTER FUND  
4 TO PERFORM DAY-TO-DAY ADMINISTRATIVE AND  
5 BOOKKEEPING SERVICES AND TO SERVE AS REGISTRAR AND  
6 TRANSFER AGENT, HAS BEEN RETAINED.

7 WAS THAT A TRUE STATEMENT HE TOLD TO  
8 INVESTORS THAT THE GLOBEOP FINANCIAL SERVICES HAS  
9 BEEN RETAINED? NO. GLOBEOP WAS NEVER THE FUND  
10 ADMINISTRATOR FOR HU OR ANY OF HIS FUNDS.

11 HOW DO YOU KNOW THIS? BECAUSE ANDREA  
12 DULBERG CAME IN, SHE'S THE GENERAL COUNSEL FOR  
13 GLOBEOP. SHE FLEW OUT FROM NEW YORK AND PROVIDED  
14 TESTIMONY. SHE TALKED AT LENGTH ABOUT HOW IT'S  
15 VERY IMPORTANT FOR GLOBEOP FOR THEIR BUSINESS THAT  
16 THEY HAVE TO BE CAREFUL ABOUT THEIR CLIENTS. THEY  
17 INVESTIGATE THEIR CLIENTS. AND THAT VERY PRESENCE  
18 IS IMPORTANT FOR THEM FOR THEIR REPUTATION, THEY  
19 HAVE VERY STRICT RECORDS ABOUT THEIR CLIENTS. THEY  
20 SEARCH THE RECORDS. THERE'S NO INDICATION THAT  
21 ALBERT HU OR HIS FUNDS, ASENQUA, FIRESIDE WAS EVER  
22 A CLIENT -- THERE'S NO INDICATION THE  
23 REPRESENTATION THAT ALBERT HU MADE WAS TRUE. AND  
24 RELATED TO CLIENTS, IT'S RELATES TO THE PRIOR  
25 TESTIMONY ABOUT PROSKAUER ROSE. THERE'S REASONS OR



1 YOU'VE HEARD TESTIMONY THERE ARE VALID BUSINESS  
2 REASONS WHY THESE ENTITIES, PROSKAUER ROSE,  
3 GLOBEOP, THESE ARE PROMINENT ENTITIES WHY THEY NEED  
4 TO HAVE STRICT RECORDS ABOUT THEIR CLIENTS.

5 IN THE LEGAL CONTEXT THERE'S ISSUES ABOUT  
6 CONFLICT OF INTEREST, YOU CAN'T REPRESENT PEOPLE ON  
7 TWO SIDES OF THE FENCE. THAT'S WHY YOU NEED TO  
8 HAVE STRONG RECORDS BECAUSE THE COMPREHENSIVE  
9 RECORDS, AND THERE'S EVIDENCE THAT THE SEARCH OF  
10 THOSE RECORDS COMES UP WITH NOTHING FOR HU OR THE  
11 FUNDS AS HE REPRESENTED, THAT THEY WERE NEVER  
12 ACTUALLY RETAINED.

13 RELATED TO THIS, AND I THINK IT'S FURTHER  
14 EVIDENCE THE DEFENDANT HAD AN INTENTION TO DEFRAUD,  
15 YOU ALSO HEARD TESTIMONY ABOUT AN ACCOUNTING FIRM  
16 NAMED SEILER.

17 AND THAT WAS, THAT'S ALSO IN THE  
18 DOCUMENTS. AND THERE WAS TESTIMONY FROM A WOMAN  
19 YOU MAY RECALL LYNN BORN, SHE WAS ONE OF THE  
20 INDIVIDUALS WITH THE ACCOUNTING FIRM SEILER. WHICH  
21 SHE PROVIDED TESTIMONY AND INDICATED THAT THAT WAS  
22 AN ACCOUNTING FIRM IN THE AREA THAT WORKED WITH  
23 HIGH-TECH IN THE HIGH-TECH SECTOR.

24 YOU WILL SEE THESE DOCUMENTS, I WILL NOT  
25 SHOW IT NOW BUT THERE ARE DOCUMENTS THAT SHOW THAT

1 SHE REPRESENTED TO INVESTORS THAT SEILER'S WAS THE  
2 ACCOUNTING FIRM FOR HIS FUNDS AS WELL.

3 AGAIN, ANOTHER PIECE OF EVIDENCE THAT YOU  
4 CAN VIEW LOOKING AT THE EVIDENCE AS A WHOLE USING  
5 YOUR REASON AND COMMON SENSE THAT POINTS TO THE  
6 FACT THAT THIS ENTIRE THING WAS FOR ALL INTENTS AND  
7 PURPOSES A SCHEME.

8 FALSE STATEMENTS NUMBER 5 AND 6, SORT OF  
9 PUT THESE TOGETHER. HIGH RATES OF RETURN AND  
10 INVESTING IN TECHNOLOGY STOCKS.

11 DEFENDANT ALBERT HU TOLD INVESTORS THAT  
12 HE WOULD PAY RATES OF RETURN AS HIGH AS 20 TO  
13 30 PERCENT ANNUAL AND THAT THESE WERE THE HISTORIC  
14 RATES OF RETURN FOR HIS HEDGE FUNDS.

15 HE ALSO TOLD INVESTORS HE WOULD OBTAIN  
16 THE RATES OF RETURNS FOR INVESTORS PRIMARILY BY  
17 INVESTING THEIR FUNDS IN TECHNOLOGY RELATED  
18 SECURITIES.

19 AND THIS IS ONE OF THE EXHIBITS THAT WAS  
20 INTRODUCED BY THE DEFENSE, THIS IS DEFENDANT'S  
21 EXHIBIT 506. THIS IS A POWERPOINT PRESENTATION  
22 THAT WAS PRESENTED. AND THIS IS A DOCUMENT THAT  
23 ALBERT HU PROVIDED TO INVEST OFFERS AND TAKING A  
24 LOOK AT THIS IT INDICATES PERFORMANCES. NET  
25 RETURNS AUDITED OF ASENQUA HEDGE FUNDS ACHIEVED A

1 FAVORABLE SHARP RATIO AND LOW CORRELATION WITH THE  
2 MARKET.

3 TAKE A LOOK AT THE LEFT-HAND COLUMN OF  
4 THE DOCUMENT, IT'S REPRESENTING THAT WHAT ARE THE  
5 NET RETURNS OF THE ASENQUA HEDGE FUNDS. THAT THEY  
6 ARE SUBSTANTIAL IN THE YEARS 2001, 2002 AND 2003.  
7 THE THREE YEARS BEFORE THIS DOCUMENT, THIS DOCUMENT  
8 IS DATED NOVEMBER 2004.

9 ALBERT HU IS REPRESENTING TO INVESTORS  
10 THAT HE HAS OBTAINED RETURNS IN THE LAST THREE  
11 YEARS OF OVER 30 PERCENT. HE'S MAKING THIS PITCH  
12 TO INVESTORS. IF YOU INVEST WITH ME YOU WILL DO  
13 GREAT.

14 A COUPLE OTHER THINGS THAT ARE  
15 SIGNIFICANT ABOUT THIS DOCUMENT. NOT ONLY IS  
16 ALBERT HU REPRESENTING TO INVESTORS THAT HE'S GOT A  
17 TERRIFIC TRACK RECORD BETTER THAN S&F, BETTER THAN  
18 NASDAQ.

19 TWO OTHER THINGS THAT ARE IMPORTANT.  
20 ONE, HE'S REPRESENTING TO INVESTORS THAT HIS  
21 RETURNS ARE NOT ONLY EXCEPTIONAL RETURNS BUT THAT  
22 THEY ARE AUDITED. WHY IS THAT SIGNIFICANT?  
23 BECAUSE THIS IS EVIDENCE OF ALBERT HU'S STATE OF  
24 MIND. HE'S REPRESENTING TO INVESTORS THAT THOSE  
25 RETURNS ARE AUDITED. ALSO TAKE A LOOK AT THE DATE

1 ON THIS POWERPOINT. IT'S NOVEMBER 2004. IF YOU  
2 TAKE A LOOK AT THE FIRST DOCUMENT WE SHOWED YOU  
3 GOVERNMENT 1, THE CASTILLO, LYN, COHEN & VIJAY  
4 DOCUMENT. THE DOCUMENT THAT THE GOVERNMENT  
5 SUBMITS, FRANKLY, WAS IS A SHAM, IT WAS FABRICATED.  
6 THIS IS A DOCUMENT THAT'S PURPORTEDLY SAYING THAT  
7 AN INDEPENDENT AUDITING FIRM IS CONFIRMING THE  
8 RETURNS OF THE ASENQUA BETA FUND.

9 THAT DOCUMENT IS DATED JANUARY 2005. A  
10 COUPLE MONTHS AFTER THIS. IT'S EVIDENCE OF THE  
11 DEFENDANT'S STATE OF MIND. NOVEMBER 2004 HE'S  
12 PREPARING A POWERPOINT PRESENTATION SLIDE TELLING  
13 PEOPLE, WE'VE GOT GREAT RETURNS AND NOT ONLY THAT,  
14 THOSE RETURNS ARE AUDITED.

15 THE DEFENDANT KNOWS AND UNDERSTANDS THAT  
16 IT'S IMPORTANT TO INVESTORS THAT THOSE RETURNS BE  
17 AUDITED. HE'S MAKING THOSE REPRESENTATIONS TO  
18 PEOPLE. HE KNOWS THAT'S IMPORTANT TO INVESTORS AND  
19 HE KNOWS AS PART OF HIS SCHEME HE'S GOING TO  
20 REPRESENT TO PEOPLE THAT THE RETURNS ARE AUDITED.

21 NOT ONLY DID THE DEFENDANT MAKE  
22 REPRESENTATIONS THAT PEOPLE ARE GOING TO DO GREAT  
23 THAT THEY ARE GOING TO GET 20 TO 30 PERCENT ANNUAL  
24 RUN RETURNS HE ALSO MADE REPRESENTATIONS THAT THE  
25 FUNDS WOULD BE INVESTED BUT THEY WOULD ALSO BE

1 INVESTED IN HIGH-TECH STOCKS.

2 HOW DID HE DO THAT? YOU HEARD TESTIMONY  
3 FROM VARIOUS INVESTORS INCLUDING MR. LIN,  
4 MR. VERDIELL, MS. DOONG THAT HE TOLD THEM. HE SAID  
5 THERE WERE LONG DISCUSSIONS ABOUT VARIOUS BACK AND  
6 FORTH, VARIOUS MEETINGS, YOU ALSO PUT HIS PROMISES  
7 IN WRITING. GOVERNMENT EXHIBIT 12 THE FIRESIDE LS  
8 FUND LP CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM.  
9 THE DOCUMENT, AGAIN, ALBERT HU PREPARED AND  
10 PRESENTED.

11 INVESTORS SAID THEY RELIED ON THIS  
12 DOCUMENT IN WIRING HIM MONEY. THE FUND IS THE  
13 FIRESIDE LS FUND, LP. THE INVESTMENT OBJECTIVE.

14 THE INVESTMENT OBJECTIVE OF THE FUND,  
15 WHICH IS REFERRING HERE TO THE FIRESIDE LS FUND,  
16 HAS IMPLEMENTED THROUGH THE MASTER FUND AS DEFINED  
17 BELOW WILL BE TO GENERATE HIGH ABSOLUTE RETURNS  
18 WHICH ARE UNCORRELATED WITH MAJOR MARKET INDICES  
19 AND WHICH EXHIBIT LOW VOLATILITY. THE FUND WILL  
20 SEEK TO ACHIEVE THIS OBJECTIVE BY INVESTING  
21 PRINCIPALLY IN THE SECURITIES OF HIGH TECHNOLOGY  
22 COMPANIES IN THE DERIVATIVE SUCH AS OPTIONS.

23 THIS IS A DOCUMENT ALBERT HU PRESENTED TO  
24 INVESTORS. HE'S PUTTING THESE COMMENTS INTO  
25 WRITING. IT'S ALSO CONFIRMED WHAT HE TOLD THOSE

1 INVESTORS AND WHAT THOSE INVESTORS TESTIFIED TO.  
2 AND AGAIN, YOUR RECOLLECTION OF WHAT THE TESTIMONY  
3 IS CONTROLS.

4 ALBERT HU PROMISED THE INVESTORS, YOU  
5 GIVE ME YOUR MONEY AND I WILL GENERATE FOR YOU VERY  
6 HIGH RETURNS, RETURNS WHICH ARE AUDITED. AND HOW  
7 IS THE DEFENDANT CLAIMING HE'S GOING TO GENERATE  
8 THOSE RETURNS? BY ACTUALLY INVESTING THE MONEY AND  
9 INVESTING IN HIGH-TECH STOCKS. ANOTHER FALSE  
10 REPRESENTATION.

11 YOU SEE THE STATEMENT, UNFORTUNATELY AS  
12 THE EVIDENCE SHOWS, THIS IS YET ANOTHER FALSE  
13 REPRESENTATION OR PROMISE THAT THE DEFENDANT MADE  
14 TO INVESTORS TO GET HIM TO WIRE MONEY. THE  
15 DEFENDANT DID NOT INVEST THE MONEY AS HE PROMISED.

16 HOW DO YOU KNOW THIS? WELL, THE DOCUMENT  
17 HERE THIS IS GOVERNMENT EXHIBIT 3 THIS IS A  
18 STATEMENT THAT THE DEFENDANT PRESENTED TO BOB LIN.  
19 ONE THAT WE WOULD SUBMIT, AGAIN, HAS A FORGED  
20 SIGNATURE THERE RELATED TO ANTHONY POLLACE. THIS  
21 DOCUMENT IS DATED APRIL 17, 2005.

22 YOU SEE MR. LIN'S NAME AT THE TOP. THIS  
23 DOCUMENT INDICATES THE TWO MONEY TRANSFERS. THIS  
24 IS THE 2-8-05, 225. THIS IS THE FIRST AND SECOND  
25 ONE, THE FIRST TWO COUNTS.

1            THEN YOU HEARD TESTIMONY FROM AGENT FINE,  
2            AGENT FINE REVIEWED THE FINANCIAL ANALYSIS TOOK A  
3            LOOK AT RELEVANT PORTIONS OF THE FINANCIAL  
4            DOCUMENTS AND PRESENTED HIS FINANCIAL SUMMARY  
5            TESTIMONY.

6            WHAT DID AGENT FINE FIND? TAKE A LOOK AT  
7            THIS GOVERNMENT EXHIBIT 267. THIS IS A  
8            DEMONSTRATIVE CHART. KEEPING IN MIND, JUMPING BACK  
9            HERE ON THIS DOCUMENT, THE GOVERNMENT EXHIBIT 3,  
10           THIS IS DOCUMENT THAT'S PROVIDED TO -- DEFENDANT  
11           PROVIDES TO BOB LIN DATED APRIL 17, 2005. WHAT IS  
12           ALBERT HU TELLING BOB LIN IS THE NET VALUE OF HIS  
13           MONEY? \$203,842. THAT'S WHAT ALBERT HU IS TELLING  
14           BOB LIN.

15           WHAT'S THE REALITY? SHOWN ON GOVERNMENT  
16           EXHIBIT 267. BOB LIN'S MONEY IS GONE. AND IT'S  
17           GONE WAY BEFORE, SIGNIFICANTLY BEFORE APRIL 17TH,  
18           2005, WHICH IS THE DATE ON THE STATEMENT THAT  
19           ALBERT HU SIGNED AND GAVE TO BOB LIN.

20           GOVERNMENT EXHIBIT 267 IS A CHART. YOU  
21           SEE THAT THERE'S IT POPS UP AND GOES DOWN. WHAT DO  
22           THOSE TWO INCREASES REFLECT? THEY REFLECT THE  
23           WIRES OF BOB LIN. HE'S WIRES THE MONEY AS PUT  
24           FORWARD IN EXHIBIT 27. HE WIRES A HUNDRED THOUSAND  
25           DOLLARS ON 2-8-05. IT'S A LITTLE LESS THAN A

1 HUNDRED THOUSAND BECAUSE THE ACCOUNT IS OVERDRAWN.

2 IT GOES TO THAT ACCOUNT FOR THIS TIME  
3 PERIOD ON THIS GRAPH, THERE'S NO MONEY COMING IN  
4 AND OUT OF THE ACCOUNT. A HUNDRED THOUSAND DOLLARS  
5 COMES IN AND WITHIN TWO WEEKS ALBERT HU, THIS IS  
6 THE BANK OF AMERICA ACCOUNT 6581, IT'S AN ACCOUNT  
7 HU CONTROLS, SIGNATORY TO, HE HAS ACCESS TO AND HE  
8 SPENDS THIS MONEY IN TWO WEEKS. IT'S ALL GONE.

9 THEN HE GETS ANOTHER HUNDRED THOUSAND  
10 DOLLARS. FEBRUARY 23RD. WITHIN TWO WEEKS ALBERT  
11 HU HAS SPENT THE REST OF THAT MONEY. WITHIN A  
12 PERIOD OF ALMOST A MONTH HE HAS SPENT \$200,000 OF  
13 BOB LIN'S MONEY.

14 HE THEN MAKES -- THAT'S NOT WHAT IT SAYS  
15 ON THE ACCOUNT STATEMENT TO BOB LIN. HE SAYS BOB  
16 LIN HAS AN ACCOUNT VALUE OF \$203,000. IN REALITY  
17 THE MONEY IS GONE BECAUSE ALBERT HU SPENT IT.

18 THE QUESTION MIGHT BE WHAT DID HE SPEND  
19 THE MONEY ON. THERE WERE A NUMBER OF THESE CHARTS,  
20 WE ARE NOT GOING TO HIGHLIGHT ALL OF THEM, I'M  
21 GOING TO HIGHLIGHT A COUPLE OF THEM.

22 AFTER THE FIRST \$200,000 WIRES FROM BOB  
23 LIN HE SUBSEQUENTLY SUBMITS -- BY THE WAY, THE  
24 EVIDENCE SHOWS THAT ALBERT HU DID NOT INVEST THOSE  
25 FIRST \$200,000 IN HIGH-TECH SECURITIES AS HE



1 PROMISED AS HE SAID ORALLY AND IN WRITING. THAT HE  
2 SPENT THE MONEY. HE SPENT IT ON THINGS LIKE CHECK  
3 CARDS AND OTHER THINGS.

4 IF YOU LOOK OVER THE COURSE OF THE CASE,  
5 LARGE AMOUNTS OF MONEY ARE BEING SPENT ON PURCHASES  
6 WHICH ARE NOT FOR THE PURPOSES THAT ALBERT HU  
7 PROMISED INVESTORS, THEY ARE NOT THE REASONS THEY  
8 WIRED HIM HUNDREDS OF THOUSANDS OF DOLLARS AND  
9 TRUSTED THEM WITH THEIR MONEY.

10 HE'S SPENDING IT ON CHECK CARD PURCHASES,  
11 HE'S SPENDING IT ON CHECKS, HE'S SPENDING IT ON  
12 THINGS LIKE COSTCO AND FRY'S AND OTHER STUFF LIKE  
13 THAT. THIS IS NOT INVESTING IN HIGH TECHNOLOGY  
14 SECURITIES. HE'S NOT -- THE DEFENDANT ALBERT HU IS  
15 NOT INVESTING THIS MONEY IN HIGH TECHNOLOGY  
16 SECURITIES AS HE'S PROMISED.

17 AND THE FACT THAT ALBERT HU IS NOT DOING  
18 WITH INVESTORS MONEY AS HE PROMISED -- THAT IS  
19 EVIDENCE OF A SCHEME TO DEFRAUD OF HIS INTENT TO  
20 DEFRAUD. THAT THIS ENTIRE THING IS A FRAUD.

21 THERE'S ANOTHER WIRE, A \$250,000 WIRE  
22 THAT TOOK PLACE ON JULY 6, 2005. YOU HEARD  
23 MR. FINE PROVIDE TESTIMONY ABOUT WHAT HAPPENED TO  
24 THIS MONEY. THIS IS PUT FORWARD ON THIS CHART.

25 AND WHAT DID ALBERT HU DO WITH THE

1       \$250,000 THAT BOB LIN SENT HIM AFTER ALBERT HU HAS  
2       SQUANDERED THE FIRST \$200,000 THAT BOB LIN HAS TOLD  
3       HIM. HE HASN'T TOLD BOB LIN THE MONEY IS GONE.  
4       HE'S TELLING HIM IN APRIL THAT THERE'S TWO STILL  
5       TWO HUNDRED THOUSAND DOLLARS.

6               WHAT DOES ALBERT HU DO WITH THE \$250,000  
7       WIRED ON 7/6/2005, HE DOESN'T DO WHAT HE PROMISED  
8       TO DO, HE DOESN'T INVEST IT IN HIGH TECH STOCKS, HE  
9       TAKES A \$150,000 OF BOB LIN'S MONEY, AND WITHOUT  
10      BOB LIN'S PERMISSION, HE TAKES THE MONEY AND PAYS A  
11      PRIOR INVESTOR, HONG LIU, ANOTHER INVESTOR IN  
12      ALBERT HU'S FUND.

13             THE GOVERNMENT WOULD SUBMIT THAT THAT IS  
14      EVIDENCE THAT ALBERT HU IS ENGAGED IN A FRAUDULENT  
15      SCHEME. HE'S TAKING MONEY FROM ONE INVESTOR AND  
16      WITHOUT THEIR PERMISSION HE'S USE USING IT TO PAY  
17      OTHER INVESTORS. IT'S NOT CONSISTENT WITH WHAT HE  
18      REPRESENTED TO BOB LIN. IT'S NOT CONSISTENT WITH  
19      SOMEONE WHO IS RUNNING A LEGITIMATE BUSINESS WHO IS  
20      RUNNING A HEDGE FUND. IT'S CONSISTENT WITH SOMEONE  
21      WHO IS RUNNING A FRAUDULENT SCHEME.

22             AND AGAIN, I WON'T GO THROUGH ALL THE  
23      DETAILS ON THIS BUT THERE'S ALSO THE SECOND  
24      INVESTMENT, HE'S SPENDING \$34,000 ON CHECK AND  
25      CHECK CARD PURCHASES.

1 MARK VERDIELL'S MARCH 31ST, 2008,  
2 STATEMENT. THIS IS A DOCUMENT AGAIN THAT WAS  
3 SUBMITTED, \$2 MILLION.

4 WHAT'S SIGNIFICANT ABOUT THIS? YOU MAY  
5 RECALL MR. VERDIELL TESTIFYING ABOUT HOW HE INVESTS  
6 HIS MONEY, HIS \$2 MILLION, WITH MR. HU AND THEN  
7 SUBSEQUENT TO THAT HE'S GETTING THE STATEMENT THAT  
8 THINGS ARE GOING GOOD.

9 THEN LATER IN THE YEAR HE STARTS TO HAVE  
10 SOME CONCERNS AND HE HAS WHAT HE REFERRED TO AS A  
11 PORTFOLIO REVIEW. HE HAS TO PUSH ALBERT HU TO DO  
12 THIS BUT EVENTUALLY HE GETS TO SIT DOWN WITH ALBERT  
13 HU AND GO OVER WHAT'S SUPPOSEDLY GOING ON WITH HIS  
14 FUNDS.

15 WHAT DOES ALBERT HU TELL HIM? HE DOESN'T  
16 GIVE HIM DOCUMENTS BUT THERE'S -- THE MATERIALS ARE  
17 SHOWN TO MR. VERDIELL ON THE SCREEN. HE'S TOLD  
18 THAT, YOU KNOW, THERE'S CERTAIN PUBLIC STOCKS THAT  
19 HAVE BEEN PURCHASED. MR. VERDIELL HAD BEEN CAREFUL  
20 WITH TRYING DUE DILIGENCE ON THIS. THIS HAPPENS IN  
21 DECEMBER THAT THERE'S A PORTFOLIO REVIEW.

22 WHAT HAPPENS A COUPLE WEEKS AFTER THE  
23 PORTFOLIO REVIEW? ALBERT HU SUBMITS THIS ACCOUNT  
24 STATEMENT TO MR. VERDIELL. MR. HU KNOWS AT THIS  
25 POINT THAT MR. VERDIELL IS HAVING SOME CONCERNS

1 HE'S GOT CONCERNS ABOUT WHAT'S GOING ON WITH HIS  
2 INVESTMENT IT'S \$2 MILLION.

3 WHAT IS ALBERT HU REPRESENT TO  
4 MR. VERDIELL? HE SUBMITS AND THIS IS -- HE  
5 INDICATES AS OF DECEMBER 31ST 2007, THIS IS  
6 CONSISTENT, THERE'S ACTUALLY ANOTHER STATEMENT THAT  
7 COMES BEFORE THAT WAS SUBMITTED IN THE SAME TIME  
8 FRAME THE VERY END OF DECEMBER, EARLY JANUARY, HE  
9 TELLS MR. VERDIELL THAT IN THE LAST QUARTER OF 2007  
10 THAT MR. VERDIELL'S INVESTMENT HAS HAD THE BEST  
11 QUARTER TO DATE, THAT IN THE LAST QUARTER, THAT  
12 IT'S GONE UP TEN PERCENT IN JUST ONE QUARTER.

13 WHAT CAN YOU INFER FROM THIS? YOU CAN  
14 INFER THAT MR. HU IS TELLING MR. VERDIELL WHAT HE  
15 THINKS MR. VERDIELL WANTS TO HEAR. AND  
16 MR. VERDIELL, HAVING RAISED A RED FLAG, EXPRESSED A  
17 CONCERN HAVING FORCED MR. HU TO CONDUCT A PORTFOLIO  
18 REVIEW IS TELLING HIM THAT THINGS ARE GOING GREAT.

19 AFTER THAT, IN MID MARCH MR. VERDIELL  
20 TELLS ALBERT HU, I WANT MY MONEY BACK. AND NOTICE  
21 IN THE NEXT STATEMENT THOSE RETURNS AREN'T SO GOOD  
22 ANYMORE. AT LEAST THESE ARE THE REPRESENTATIONS  
23 ALBERT HU IS MAKING TO MR. VERDIELL. NOW THAT  
24 MR. VERDIELL IS ASKING FOR HIS MONEY BACK, THAT  
25 LAST NUMBER, SUPPOSEDLY LOST MONEY.

1           YOU HEARD TESTIMONY FROM AGENT FINE ABOUT  
2           THAT HAPPENED TO MR. VERDIELL'S \$2 MILLION  
3           INVESTMENT. AND WHAT HAPPENED, AS THE EVIDENCE  
4           SHOWS, IS THAT ALBERT HU DIDN'T SPEND THAT MONEY AS  
5           HE PROMISED HE WOULD. THAT MONEY GOES TO AN  
6           ACCOUNT IN SINGAPORE, AN ACCOUNT THAT ALBERT HU  
7           CONTROLS, AGAIN HAS SIGNATORY AUTHORITY ON.

8           WHAT DID ALBERT HU DO WITH MR. VERDIELL'S  
9           TWO MILLION DOLLARS? HE TAKES \$600,000 OF THAT  
10          MONEY AND HE PAYS, AGAIN, ANOTHER PRIOR INVESTOR  
11          ANDY YAN.

12          HE ALSO TAKES A LARGE SUM OF MONEY AND  
13          ALMOST A QUARTER OF IT, ALMOST HALF A MILLION  
14          DOLLARS AND HAS IT GO TO FIRESIDE USA. YOUR  
15          TESTIMONY FROM AGENT FINE, THAT OF MR. VERDIELL'S  
16          TWO MILLION DOLLARS THERE WAS SOME MONEY SPENT ON  
17          SECURITIES.

18          HOWEVER, THE EVIDENCE SHOWS THAT THESE  
19          WERE NOT HIGH-TECH SECURITIES THAT WERE PURCHASED  
20          THAT EVENTUALLY EVER BENEFITTED MR. VERDIELL. MR.  
21          VERDIELL INVESTED \$2 MILLION OF ALBERT HU, HE NEVER  
22          GOT ANYTHING OUT OF IT.

23          AFTER MR. VERDIELL ASKED FOR HIS MONEY  
24          BACK, ALBERT HU SAYS YOU ARE GOING TO GET YOUR  
25          MONEY BACK, THERE'S E-MAILS, EXPLANATIONS. HE

1 NEVER GETS HIS MONEY BACK.

2 SO THE FACT THAT SOME SECURITIES WERE  
3 PURCHASED WITH MR. VERDIELL'S MONEY IS NOT EVIDENCE  
4 THAT ALBERT HU WAS DOING WHAT HE SAID HE WOULD DO.  
5 HE PURCHASED SOME SECURITIES BUT THEY NEVER WENT TO  
6 THE BENEFIT OF MR. VERDIELL.

7 SO IN REALITY, JUST ANOTHER WAY OF  
8 STEALING MR. VERDIELL'S MONEY. SOME OF IT WAS  
9 STOLEN AND USED ON CHECK CARD PURCHASES, SOME OF IT  
10 WAS STOLEN TO USE -- SOME OF IT WAS STOLEN TO PAY  
11 FOR FIRESIDE USA. MONEY WAS USED TO PAY OTHER  
12 INVESTORS. SOME OF IT WAS USED TO PAY SECURITIES  
13 WHICH EVENTUALLY DIDN'T GO TO MR. VERDIELL'S  
14 BENEFITS. THE BOTTOM LINE IS HE'S NOT DOING WHAT  
15 HE PROMISED TO DO.

16 THE EVIDENCE AT TRIAL SHOWS THAT BY  
17 OCTOBER 23RD, 2007 HU HAD ESSENTIALLY SPENT ALL OF  
18 MARK VERDIELL AND BOB LIN'S MONEY.

19 AND YOU ARE TO CONSIDER THE EVIDENCE AS A  
20 WHOLE. SO KEEP IN MIND THIS FACT. ALBERT HU HAD  
21 SPENT ALL OF MR. VERDIELL'S AND MR. LIN'S MONEY BY  
22 OCTOBER 23RD, 2007. THAT'S ALMOST TWO MONTHS  
23 BEFORE THE PORTFOLIO REVIEW THAT I TALKED ABOUT.  
24 THE PORTFOLIO REVIEW IN DECEMBER 2007 WHERE ALBERT  
25 HU REQUESTS GOES AND SITS DOWN TALKS TO

1 MR. VERDIELL AND THEY GO TO THE KABUKI DANCE THAT  
2 MR. VERDIELL TELLS HIM EVERYTHING IS FINE. MR. HU  
3 DOESN'T TELL MR. VERDIELL HE HAD SPENT ALL HIS  
4 MONEY TWO MONTHS EARLIER.

5 WHAT IS THAT EVIDENCE OF? WE WOULD  
6 SUBMIT THAT'S EVIDENCE THAT THIS IS A FRAUD, THIS  
7 IS MR. HU'S INTENT TO DECEIVE OR CHEAT.

8 ALL RIGHT. SO THE FIRST ELEMENT OF WIRE  
9 FRAUD IS THAT MR. HU CAUSED WIRES TO BE SENT. THE  
10 SECOND ELEMENT OF WIRE FRAUD IS THAT THERE WAS AT  
11 LEAST ONE FALSE REPRESENTATION, PROMISE OR  
12 PRETENSE, AND WE HAVE GONE THROUGH 5 OR 6.

13 THE THIRD ELEMENT OF WIRE FRAUD IS  
14 MATERIALITY. A FALSE OR FRAUDULENT PRETENSE,  
15 REPRESENTATION OR PROMISE IS MATERIAL IF IT HAD A  
16 NATURAL TENDENCY TO INFLUENCE OR WAS CAPABLE OF  
17 INFLUENCING A POTENTIAL INVESTOR TO PART WITH  
18 MONEY.

19 SO THE GOVERNMENT'S BURDEN HERE IS TO  
20 LEAVE YOU FIRMLY CONVINCED THAT THE DEFENDANT MADE  
21 AT LEAST ONE FALSE OR FRAUDULENT PRETENSE  
22 REPRESENTATION OR PROMISE THAT WAS MATERIAL LEAVING  
23 YOU FIRMLY CONVINCED THAT THAT ONE PRETENSE,  
24 REPRESENTATION, PROMISE OR MATERIAL HAD A NATURAL  
25 TENDENCY TO INFLUENCE OR WAS CAPABLE OF INFLUENCING

1 A POTENTIAL INVESTOR TO PART WITH MONEY.

2 THAT'S THE STANDARD. DOESN'T MEAN THEY  
3 HAVE TO PROVE THEY ACTUALLY DID, JUST MEANS CAPABLE  
4 OF. THAT'S WHAT IS PUT FORWARD HERE IN THIS  
5 INSTRUCTION.

6 HOW DO YOU KNOW IF ANY OF ALBERT HU'S  
7 FALSE OR FRAUDULENT PRETENSES, REPRESENTATIONS OR  
8 PROMISES WERE MATERIAL? TWO WAYS.

9 ONE, YOUR REASON AND COMMON SENSE.

10 SECONDLY, TESTIMONY THAT YOU HEARD AT  
11 TRIAL OF ALBERT HU'S INVESTORS.

12 FIRST, LET'S TALK ABOUT YOUR REASON AND  
13 COMMON SENSE.

14 THE FAKE ACCOUNTING FIRM WE TALKED ABOUT.  
15 THE EVIDENCE SHOWS IT'S EXTREMELY STRONG THAT  
16 ALBERT HU EFFECTIVELY MANUFACTURED AN ACCOUNTING  
17 FIRM, CASTILLO, LYN, COHEN & VIJAY. ONE THAT HE  
18 WHEN HE'S SUBMITTING DOCUMENTS HE INDICATES THAT  
19 THERE WERE HIGH RETURNS THAT WERE AUDITED.

20 SO USING YOUR REASON AND COMMON SENSE YOU  
21 SHOULD ASK YOURSELF IF SOMEONE HAD CREATED A FAKE  
22 ACCOUNTING FIRM AND FABRICATED DOCUMENTS, AND  
23 FORGED THE NAME OF A CPA ON THOSE DOCUMENTS, AND  
24 SUBMITTED THEM TO INVESTORS, AND INDICATED TO THEM  
25 THAT THE FUNDS WERE -- HAD GREAT RETURNS. THAT'S



1 THE TYPE OF THING THAT WOULD HAVE A NATURAL  
2 TENDENCY TO INFLUENCE OR WOULD BE CAPABLE OF  
3 INFLUENCING A POTENTIAL INVESTOR TO INVEST MONEY.

4 THE GOVERNMENT WOULD SUBMIT THAT USING  
5 YOUR REASON AND COMMON SENSE, THE ANSWER IS  
6 UNQUESTIONABLY YES. WHAT POTENTIAL INVESTOR WOULD  
7 INVEST MONEY WITH SOMEONE WHO HAS CREATED A FAKE  
8 ACCOUNTING FIRM? AND IF THE POTENTIAL INVESTOR  
9 KNEW ABOUT THE FACT THAT THE STATEMENTS WEREN'T  
10 AUDITED, IT KNEW ABOUT THE FACT THAT SIGNATURES  
11 WERE FORCED, THEY NEVER WOULD HAVE GOTTEN CLOSE TO  
12 AN INVESTMENT LIKE THIS. AT THE VERY LEAST IT  
13 WOULD HAVE A CAPACITY TO INFLUENCE THEIR DECISION  
14 AND THAT'S THE REQUIREMENT FOR IT TO BE MATERIAL.

15 THE NEXT ARGUMENT ON MATERIALITY, REASON  
16 AND COMMON SENSE WERE THE FORGED SIGNATURES OF THE  
17 CFO. THIS IS THE QUESTION YOU HAVE TO ASK  
18 YOURSELF, ARE YOU FIRMLY CONVINCED THAT A POTENTIAL  
19 INVESTOR WOULD HAVE A NATURAL TENDENCY TO INFLUENCE  
20 THEM OF PARTING WITH MONEY IF THEY KNEW THAT THE  
21 CFO WAS NOT THE CFO OF THE COMPANY OR THAT THERE  
22 WERE FORGED DOCUMENTS ON INVESTMENT DOCUMENTS.

23 I WOULD SUBMIT USING YOUR REASON AND  
24 COMMON SENSE, THIS IS PRETTY STRAIGHT FORWARD.  
25 THAT IS A MATERIAL MISSTATEMENT, ONE THAT WOULD

1 HAVE A CAPACITY TO INFLUENCE PEOPLE TO INVEST  
2 MONEY.

3 AGAIN, YOUR REASON AND COMMON SENSE, WE  
4 WOULD SUBMIT, WOULD LEAD YOU TO CONCLUDE THE  
5 FABRICATED RELATIONSHIPS WITH PROMINENT FIRMS WOULD  
6 HAVE HAD A NATURAL TENDENCY TO INFLUENCE OR AT  
7 LEAST A CAPACITY CAPABLE OF INFLUENCING A POTENTIAL  
8 INVESTOR TO INVEST MONEY.

9 CONSIDERING A POTENTIAL INVESTOR, WOULD  
10 IT BE CAPABLE OF INFLUENCING THEM IF THEY KNEW THAT  
11 A PROMINENT LAW FIRM WAS AFFILIATED WITH THE FUND?  
12 YES. WOULD IT BE CAPABLE OF INFLUENCING THEM IF  
13 THEY KNEW A PROMINENT HEDGE FUND ADMINISTRATOR WAS  
14 AFFILIATED WITH THE FUND? YES, IT WOULD.

15 AND THE GOVERNMENT WOULD SUBMIT THAT  
16 ALBERT HU KNEW THAT. THAT HE KNEW THAT THESE  
17 ENTITIES WOULD INFLUENCE INVESTORS AND THAT'S WHY  
18 HE INCLUDED THEM IN THESE DOCUMENTS. HE KNEW THAT  
19 THAT WOULD BRING PEOPLE IN. AGAIN, WE WOULD SUBMIT  
20 THIS IS STRAIGHTFORWARD.

21 ALSO USE YOUR REASON AND COMMON SENSE ON  
22 THE FRAUDULENT QUARTERLY STATEMENT DOCUMENTS COMING  
23 IN THAT ARE FALSE. THEY ARE PAINTING A PICTURE OF  
24 THE STATE OF THE FINANCES OF THE MONEY THAT ALBERT  
25 HU GAVE TO INVESTORS AND IT'S NOT IN ACCORDANCE

1 WITH REALITY. HE'S HAS SPENT THE, MONEY, HE HAS  
2 NOT INVESTED IT AS HE PROMISED. AND BOB LIN HAVING  
3 INVESTED A SIGNIFICANT AMOUNTS OF MONEY TO THE  
4 DEFENDANT, HE GIVES MORE MONEY TO THE DEFENDANT.

5 AND ANOTHER ONE OF THE FALSE STATEMENTS  
6 THAT WERE DISCUSSED IS THE FACT THERE WAS A MINIMUM  
7 INVESTMENT OF A MILLION DOLLARS. YOU HEARD  
8 TESTIMONY FROM GRACE DOONG HER SISTER HAD INVESTED  
9 A MILLION DOLLARS. AT THE TIME THAT THE DEFENDANT  
10 IS TELLING BOB LIN THAT THERE'S A MINIMUM  
11 INVESTMENT OF A MILLION DOLLARS.

12 AND THAT'S ANOTHER FALSE STATEMENT OR  
13 REPRESENTATION, YOU HAVE TO INVEST A MILLION  
14 DOLLARS. THAT FALSE PROMISE OR REPRESENTATION IS  
15 THE REASON BOB LIN WIRES MORE MONEY.

16 ANOTHER PART OF REASON HE WIRES MORE  
17 MONEY THE \$250,000, IS THAT HE'S LULLED INTO A  
18 SENSE OF COMPLACENCY BY THE FRAUDULENT QUARTERLY  
19 STATEMENTS. THE ONES THAT ARE FALSE, NOT IN  
20 ACCORDANCE WITH REALITY. THEY ARE SIGNED BY ALBERT  
21 HU AND THERE'S A FORGED SIGNATURE OF SOMEONE WHO IS  
22 NOT THE CFO OF THE FUND.

23 AND AGAIN, FOLLOW THE MONEY. CONSIDER  
24 THE VARIOUS FINANCIAL CIRCUMSTANCES AND THE FALSE  
25 STATEMENTS, THE PROMISES OF HIGH RETURNS IS NOT

1 INVESTMENT MONEY. USE YOUR REASON AND COMMON  
2 SENSE.

3 WE WOULD SUBMIT THE EVIDENCE IS EXTREMELY  
4 STRONG THAT THESE FALSE STATEMENTS THAT THE  
5 ACCOUNTING FIRM, THE SIGNATURES, THE FABRICATED  
6 RELATIONSHIPS, FRAUDULENT QUARTERLY STATEMENTS, THE  
7 FALSE STATEMENTS ABOUT THE MONEY AND NOT DOING WHAT  
8 HE SAID HE WOULD DO WOULD INFLUENCE INVESTORS.

9 I MEAN, ASK YOURSELF, WOULD A POTENTIAL  
10 INVESTOR -- COULD IT HAVE BEEN CAPABLE OF  
11 INFLUENCING THE FACT THAT THEY WERE TOLD THAT THEY  
12 WOULD GET 20 TO 30 PERCENT RETURNS? IF THE ANSWER  
13 IS YES, THEN THE STATEMENT IS MATERIAL.

14 COULD HAVE BEEN CAPABLE OF INFLUENCING  
15 THEM THE FACT THAT THEIR MONEY WAS GOING TO BE  
16 INVESTED IN HIGH-TECH STOCKS. WOULD THAT BE  
17 CAPABLE OF INFLUENCING A POTENTIAL INVESTOR? YES,  
18 IT WOULD BECAUSE THAT'S WHAT A POTENTIAL INVESTOR  
19 WOULD WANT TO BE INVESTING IN HIGH-TECH STOCKS.

20 SO BEING TOLD THEIR MONEY WOULD BE  
21 INVESTED IN HIGH-TECH STOCKS WOULD INFLUENCE THEM  
22 TO PART WITH MONEY.

23 IN ADDITION TO USING YOUR REASON AND  
24 COMMON SENSE ABOUT MATERIALITY, THERE'S ALSO  
25 EVIDENCE THAT WAS PRESENTED AT TRIAL. AND I JUST

1 WANT TO HIGHLIGHT THAT YOUR RECOLLECTION OF THE  
2 EVIDENCE IS WHAT IS CONTROLS.

3 YOU HAVE A RECOLLECTION OF THE EVIDENCE  
4 THAT'S DIFFERENT THAN WHAT IS PRESENTED UP HERE,  
5 YOUR RECOLLECTION IS WHAT CONTROLS. HOWEVER, WE'VE  
6 PREPARED SOME SLIDES THAT IS OUR RECOLLECTION OF A  
7 QUESTION THAT WAS ASKED SOME OF THE INVESTORS AND  
8 AN ANSWER, AND THAT THIS WAS THE ANSWER THAT WAS  
9 GIVEN.

10 AND THE GOVERNMENT WOULD RESPECTFULLY  
11 SUBMIT THAT IN ADDITION TO USING YOUR REASON AND  
12 COMMON SENSE TO FIND THAT ALL THESE VARIOUS FALSE  
13 STATEMENTS WERE MATERIAL, THAT YOU ALSO HAVE THE  
14 TESTIMONY OF THE INVESTORS THAT IT WAS MATERIAL  
15 BECAUSE IT INFLUENCED THEM. IT INFLUENCED THEM TO  
16 PART WITH LARGE AMOUNTS OF MONEY.

17 THE QUESTION WAS ASKED OF MARK VERDIELL,  
18 DID THE PRIVATE PLACEMENT MEMORANDUM FOR THE  
19 FIRESIDE LS FUND INFLUENCE YOUR DECISION TO INVEST  
20 IN THE FIRESIDE LS FUND? WHAT WAS THE ANSWER THAT  
21 WAS GIVEN? YES, IT DID.

22 ANOTHER TESTIMONY RELATED TO MATERIALITY.  
23 WE ARE GOING TO GO THROUGH A COUPLE OF THESE.  
24 THERE WERE MANY DIFFERENT STATEMENTS ABOUT THAT  
25 RELATE TO MATERIALITY. WE ARE GOING TO GO THROUGH

1 A COUPLE.

2 MR. VERDIELL SAID, THE QUESTION WAS  
3 ASKED, "WAS IT IMPORTANT TO YOU THAT THE FIRESIDE  
4 LS FUND HAD INDEPENDENT AUDITORS?" THE ANSWER WAS,  
5 YES, OF COURSE.

6 YOU MAY RECALL THAT MR. VERDIELL GAVE  
7 TESTIMONY ABOUT HOW HE DID EXTRA DUE DILIGENCE IN  
8 THE CONTEXT OF THIS INVESTMENT BECAUSE IT WAS A  
9 PRIVATE INVESTMENT, IT WASN'T INVESTING IN A PUBLIC  
10 COMPANY WHERE YOU HAVE ANALYSTS AND OTHER THINGS  
11 THAT ARE LOOKING OUT AFTER IT, THAT HE ATTEMPTED TO  
12 DO EXTRA DUE DILIGENCE. THAT HE HAD SEVERAL  
13 MEETINGS WITH THE DEFENDANT BEFORE SHE INVESTED.  
14 THAT HE WENT OVER THE DOCUMENTS IN DETAIL WITH HIM  
15 BEFORE HE INVESTED HIS MONEY. THAT HE TALKED ABOUT  
16 HOW IT WAS IMPORTANT TO HIM THAT THERE WERE  
17 MULTIPLE LEVELS OF PROTECTION THAT THERE WERE  
18 INDEPENDENT BOOKKEEPERS THAT LOOKED AT IT,  
19 INDEPENDENT ACCOUNTANTS, THE SEILER FIRM WHO LOOKED  
20 OVER THE INDEPENDENT BOOKKEEPERS, THAT THERE WERE  
21 INDEPENDENT AUDITORS THE CASTILLO, LYN FIRM, THAT  
22 THERE WERE CHECKS AND BALANCES.

23 THIS IS ALSO EVIDENCE YOU CAN KEEP IN  
24 MIND IN DETERMINING WHETHER THE VARIOUS FALSE  
25 STATEMENTS WERE MATERIAL.

1 MR. VERDIELL TESTIFIED HE WOULDN'T HAVE  
2 INVESTED IF THE CASTILLO LYN FIRM DIDN'T EXIST IF  
3 IT WASN'T INDEPENDENT.

4 ANOTHER TESTIMONY, A QUESTION WAS ASKED  
5 OF BOB LIN: AND MR. LIN, WOULD YOU HAVE KEPT  
6 INVESTING IF YOU HAD KNOWN THAT THE QUARTERLY  
7 STATEMENTS WE LOOKED AT THIS MORNING FOR ASENQUA  
8 BETA AND THEN FOR FIRESIDE LS FUND, IF YOU HAD  
9 KNOWN THOSE RETURNS WERE NOT TRUE AND ACCURATE  
10 WOULD YOU HAVE KEPT INVESTING MONEY?

11 THAT WAS THE QUESTION THAT WAS ASKED.  
12 AND WHAT WAS THE ANSWER THAT WAS GIVEN? THE ANSWER  
13 THAT WAS GIVEN, MR. LIN SAID NO, I WOULD HAVE RUN  
14 AS FAST AS I COULD.

15 THE FALSE STATEMENTS WERE MATERIAL.  
16 THAT'S WHAT THE GOVERNMENT'S POSITION IS.

17 MR. VERDIELL WAS ASKED, DO YOU EXPECT --  
18 DID YOU EXPECT -- WOULD IT HAVE INFLUENCED YOUR  
19 DECISION TO INVEST WITH ALBERT HU IF A SIGNIFICANT  
20 PORTION OF YOUR FUNDS WAS GOING TO BE USED TO PAY  
21 FOR ALBERT HU'S LIVING EXPENSES? THE ANSWER THAT  
22 WAS GIVEN, ABSOLUTELY. I WOULDN'T HAVE INVESTED.

23 AND AGAIN, WHY NOT?

24 ANSWER, BECAUSE THE MONEY WAS FOR THE  
25 PURPOSE OF THE INVESTMENT, IT WAS NOT FOR MR. HU TO

1 PUT IN HIS POCKET.

2 THE FACT THAT -- AND THE GOVERNMENT WOULD  
3 SUBMIT THAT THE FACT THAT MR. HU DID NOT MAKE FALSE  
4 STATEMENTS, HE'S GOING TO ACTUALLY INVEST THIS  
5 MONEY AND THEN DOESN'T, THAT'S MATERIAL. IT HAD A  
6 NATURAL TENDENCY TO INFLUENCE OR WAS CAPABLE OF  
7 INFLUENCING INVESTORS IT DID INFLUENCE INVESTORS.

8 GRACE DOONG, ANOTHER INVESTOR WAS ASKED,  
9 WHAT DID YOU UNDERSTAND THIS REFERENCE TO PROSKAUER  
10 ROSE LLP TO MEAN AT THE TIME?

11 ANSWER: IT MEANS THE FUND HAS BEEN  
12 MONITORED BY PROSKAUER ROSE AS A LEGAL COUNSEL.

13 QUESTION: AND THAT WAS SIGNIFICANT TO  
14 YOU AT THE TIME?

15 ANSWER: YES.

16 WHY?

17 IT MEANS THE FUND WAS MONITORED.

18 AND WHAT DO YOU MEAN BY MONITORED?

19 IT MEANS IT'S MONITORED TO MAKE SURE IT  
20 COMPLIES WITH ALL THE LEGAL OR FINANCIAL REGULATION  
21 REQUIREMENTS.

22 MORE TESTIMONY, OR ANOTHER QUESTION THAT  
23 WAS ASKED OF GRACE DOONG.

24 QUESTION: IF YOU HAD KNOWN AT ANY POINT  
25 IN THE PROCESS THAT MR. POLLACE HAD NOT IN FACT



1 SIGNED THOSE DOCUMENTS HIMSELF, WOULD THAT HAVE  
2 CAUSED YOU TO ACT DIFFERENTLY?

3 ANSWER: OF COURSE.

4 QUESTION: WHY?

5 ANSWER: EVERY DOCUMENT NEED TO BE TRUE.  
6 AND IF ANYTHING ON THE FUND THAT WASN'T TRUE TO ME  
7 I SHOULDN'T MAKE ANY INVESTMENT IN THOSE FUNDS.

8 AGAIN, THE QUESTION ASKED OF GRACE DOONG  
9 ABOUT ANOTHER ONE OF THE FALSE STATEMENTS, THE  
10 FALSE PROMISES AND REPRESENTATIONS.

11 QUESTION: MS. DOONG, FOR THE INVESTMENTS  
12 THAT YOUR SISTER MADE IN THE ASENQUA BETA FUND THAT  
13 BECAME FIRESIDE AND YOUR OWN INVESTMENT IN THE AQC,  
14 IF YOU HAD KNOWN AT ANY POINT EITHER PRIOR TO THE  
15 START OF THE INVESTING OR THEREAFTER THAT THE MONEY  
16 WAS NOT BEING INVESTED AS IT HAD BEEN PROMISED TO  
17 YOU BUT WAS ACTUALLY BEING SPENT ON OTHER PURPOSES  
18 BY MR. HU, WOULD YOU HAVE INVESTED?

19 ANSWER: ABSOLUTELY NO.

20 QUESTION: WHY NOT?

21 ANSWER: AS I SAID, IF THE INVESTMENT  
22 WASN'T DONE AS IT'S SUPPOSED TO BE HANDLED, IT  
23 WOULD BE STUPID TO PUT IN ANY OF MY MONEY OR  
24 OTHER'S MONEY.

25 AGAIN, THE GOVERNMENT WOULD SUBMIT THAT

1 THE FALSE STATEMENTS THE NUMEROUS FALSE PROMISES  
2 THE DEFENDANT MADE WERE MATERIAL.

3 BOB LIN WAS ASKED IN THE CONTEXT OF THE  
4 FALSE STATEMENTS REGARDING MR. POLLACE.

5 QUESTION: WAS IT IMPORTANT TO YOU,  
6 MR. LIN, THAT THE STATEMENTS AND THE ONES WE ARE  
7 GOING TO LOOK AT FOLLOWING HAVE BEEN REVIEWED AND  
8 SIGNED OFF BY MR. POLLACE, THE FUND'S REPORTED CFO?

9 ANSWER: YES, IT WAS PENITENTIARY.

10 QUESTION: WHY SO?

11 ANSWER: CFO -- IN ANY FINANCIAL  
12 STATEMENT CFO IS KEY.

13 QUESTION: WHY IS THE CFO IMPORTANT?

14 ANSWER: HE'S RESPONSIBLE FOR ALL THE  
15 FINANCIAL RELATED ISSUES, HE'S RESPONSIBLE TO  
16 VERIFY ALL THE FINANCIAL STATEMENTS ARE CORRECT.

17 AND THE GOVERNMENT WOULD SUBMIT THAT  
18 MR. LIN'S UNDERSTANDING, THAT IS WHAT A CFO IS FOR  
19 IS TO BE RESPONSIBLE TO VERIFY FINANCIAL  
20 STATEMENTS.

21 THAT'S WHY IF YOU'RE TAKING -- A  
22 POTENTIAL INVESTOR WOULD WANT TO KNOW THAT THERE'S  
23 A CFO. IT WOULD BE MEANINGFUL TO THEM THAT THEY  
24 ARE SIGNING OFF, IT'S NOT JUST A ONE-MAN BAND,  
25 THERE'S OTHER CHECKS AND BALANCES.

1           IN THIS CASE IT WAS JUST ALBERT HU.   AND  
2           HE WAS TAKING PEOPLE'S MONEY AND HE WAS FALSELY  
3           CLAIMING OTHER ENTITIES WERE AFFILIATED WITH IT.

4           ALL RIGHT.   SO THERE'S TWO MORE ELEMENTS  
5           WE ARE GOING TO GO THROUGH QUICKLY ABOUT ELEMENTS  
6           OF WIRE FRAUD.

7           AGAIN, THE FIRST WE TALKED ABOUT IS  
8           CAUSING WIRES.   SECOND, THE FALSE STATEMENTS.  
9           THIRD IS MATERIALITY.   THE FOURTH IS INTENT TO  
10          DEFRAUD.

11          THE GOVERNMENT HAS TO PROVE BEYOND A  
12          REASONABLE DOUBT LEAVE YOU FIRMLY CONVINCED THAT  
13          THE DEFENDANT ALBERT HU ACTED WITH AN INTENT TO  
14          DEFRAUD, THAT IS, THE INTENT TO DECEIVE OR CHEAT.

15          THE INSTRUCTIONS WILL INDICATE THAT IN  
16          DETERMINING WHETHER A SCHEME TO DEFRAUD EXISTS, YOU  
17          MAY NOT CONSIDER NOT ONLY THE DEFENDANT'S WORDS AND  
18          STATEMENTS BUT ALSO THE CIRCUMSTANCES IN WHICH THEY  
19          WERE USED AS A WHOLE.

20          SO THE QUESTION THEN THAT YOU ARE ASKED  
21          IS, HOW DO YOU KNOW THAT ALBERT HU ACTED WITH THE  
22          INTENT TO DEFRAUD?   HOW DO YOU KNOW HE ACTED WITH  
23          AN INTENT TO DECEIVE OR CHEAT INVESTORS?

24          AND AGAIN I WILL REITERATE AT THE ONSET  
25          THAT THE GOVERNMENT SUBMITS THAT THIS IS ACTUALLY A

1 FAIRLY STRAIGHTFORWARD CASE. IT'S FAIRLY  
2 STRAIGHTFORWARD BOUT HE WAS ACTING IN AN INTENT TO  
3 DECEIVE. AND WE WOULD RESPECTFULLY SUBMIT THAT THE  
4 EVIDENCE THAT HE WAS ACTING WITH AN INTENT TO  
5 DEFRAUD IS TRULY OVERWHELMING.

6 CASTILLO, LYN, COHEN & VIJAY. THE  
7 EVIDENCE SHOULD LEAVE YOU FIRMLY CONVINCED THAT  
8 WHEN THE DEFENDANT FABRICATED THE EXISTENCE OF AN  
9 AUDITING FIRM AND CREATED DOCUMENTS THAT MADE FALSE  
10 REPRESENTATIONS ABOUT THOSE FUNDS, THAT HE HAD AN  
11 INTENT TO DEFRAUD, THAT HE WAS INTENDING TO DECEIVE  
12 OR CHEAT PEOPLE.

13 THIS IS A FAIRLY BRAZEN EXAMPLE OF  
14 DECEIVE OR CHEAT PEOPLE. THE FORGED SIGNATURES OF  
15 TONY POLLACE THAT WERE ON THE DOCUMENTS THAT ALBERT  
16 HU PROVIDED TO INVESTORS. WE WOULD RESPECTFULLY  
17 SUBMIT THAT WHEN THE DEFENDANT SUBMITTED DOCUMENTS  
18 THAT FALSELY CLAIM THAT TONY POLLACE WAS THE CFO  
19 FOR HIS FUNDS AND HAD A SIGNATURE ON IT THAT WASN'T  
20 TONY POLLACE'S SIGNATURE, ALTHOUGH IT DID HAVE  
21 ALBERT HU'S SIGNATURE, THAT ALBERT HU WAS ACTING  
22 WITH AN INTENT TO DEFRAUD, THAT HE WAS INTENDING TO  
23 DECEIVE OR CHEAT PEOPLE TO DECEIVE THEM INTO  
24 THINKING THAT TONY POLLACE WAS THE CFO THAT HE WAS  
25 SIGNING OFF ON IT.

1 THE FABRICATED RELATIONSHIPS WITH THE  
2 PROMINENT FIRMS. WE RESPECTFULLY SUBMIT THAT THE  
3 EVIDENCE WILL LEAVE YOU FIRMLY CONVINCED THAT WHEN  
4 THE DEFENDANT SUBMITTED DOCUMENTS TO INVESTORS THAT  
5 FALSELY CLAIM THAT PROSKAUER ROSE WAS THE LAW FIRM  
6 TO HIS FUNDS, THAT HE WAS ACTING WITH AN INTENT TO  
7 DECEIVE OR CHEAT.

8 HE WAS ACTING WITH AN INTENT TO CHEAT THE  
9 PEOPLE OUT OF MONEY, TO DECEIVE THEM TO THINK THAT  
10 PROSKAUER ROSE WAS AFFILIATED WITH HIS FUNDS THAT  
11 GAVE A SHEEN OF LEGITIMACY TO HIS FUNDS THAT HE WAS  
12 INTENDING FOR INVESTORS TO THINK THAT BECAUSE  
13 PROSKAUER ROSE, WHICH IS A PROMINENT LAW FIRM  
14 BECAUSE THEY WERE ON BOARD, THAT IT'S OKAY FOR THE  
15 INVESTORS TO GET ON BOARD THAT THEY COULD BE  
16 PROTECTED.

17 AND WE WOULD SUBMIT YOU SHOULD BE FIRMLY  
18 CONVINCED WHEN HE MADE THAT FALSE REPRESENTATION HE  
19 WAS ACTING WITH THE INTENT TO DECEIVE OR CHEAT.

20 AND ALSO THE GLOBE OP EVIDENCE ABOUT THE  
21 HEDGE FUNDS THAT AGAIN WHEN THE DEFENDANT IS  
22 SUBMITTING DOCUMENTS FALSELY CLAIMING GLOBE OP HAS  
23 BEEN RETAINED HE'S, WE WOULD SUBMIT HE'S ACTING IN  
24 A WAY TO DECEIVE OR CHEAT.

25 ALSO THE EVIDENCE ABOUT SEILER, THE

1       DEFENDANT IS MAKING STATEMENTS TO INVESTORS AND  
2       WRITING THAT SEILER IS THE ACCOUNTANTS FOR THE  
3       FUND. THEY ARE NOT. THAT'S EVIDENCE YOU CAN  
4       CONSIDER OF HIS INTENT TO DEFRAUD.

5               AND ALSO IT'S IMPORTANT TO KEEP IN MIND  
6       THAT YOU NOT ONLY APPLY YOUR REASON AND COMMON  
7       SENSE, YOU CONSIDER ALL THE EVIDENCE AS A WHOLE.

8               YOU CONSIDER ALL OF THESE FALSE  
9       STATEMENTS TOGETHER IN CONSIDERING WHETHER OR NOT  
10      THE DEFENDANT HAS THIS INTENT TO DEFRAUD THAT HE  
11      INTENDED TO DECEIVE OR CHEAT PEOPLE.

12              WE SUBMIT THAT FOR EACH OF THE FALSE  
13      STATEMENTS WE WALKED THROUGH, FOR EACH OF THEM HE  
14      POSSESSED AN INTENT TO DEFRAUD. FOR EACH OF THE  
15      STATEMENTS HE WAS INTENDING TO DECEIVE OR CHEAT  
16      THEM.

17              THEN THE ADDITIONAL EVIDENCE ABOUT THE  
18      INTENT TO DEFRAUD. THE VERY EXPLANATIONS, YOU  
19      HEARD SEVERAL INVESTORS TESTIFIED THAT THE  
20      DEFENDANT GAVE EXPLANATIONS ABOUT WHY HE COULDN'T  
21      RETURN THE FUNDS.

22              YOU HEARD MR. VERDIELL TESTIFY, AND I  
23      THINK YOU SAW E-MAILS TO THE EFFECT THAT MR. HU  
24      REPRESENTED TO INVESTORS THAT HE COULDN'T GET HIS  
25      MONEY BACK. THERE'S AN E-MAIL EVIDENCE THAT TALKS

1 ABOUT THE WIRING DATE, WE ARE TRYING TO FINALIZE  
2 THE WIRING DATE, WHICH WAS ITSELF A FALSE  
3 STATEMENT. THE MONEY IS GONE AT THAT POINT.

4 OTHER STATEMENTS MR. HU MAKES AS THIS  
5 SCHEME IS KIND OF FALLING A PART IS EVIDENCE THAT  
6 YOU CAN CONSIDER ABOUT HIS INTENT TO DEFRAUD.

7 THERE WAS THE DISCUSSION ABOUT THE K1,  
8 THIS IS THE TAX DOCUMENT. IT WAS A DOCUMENT THAT  
9 MR. VERDIELL ASKED FOR BECAUSE IT WAS REQUIRED FOR  
10 HIS TAXES WHEN HE INVESTED WITH ALBERT HU.

11 AND IF YOU LOOK AT THOSE QUARTERLY  
12 STATEMENTS THAT ALBERT HU SIGNED, THE ONES WITH THE  
13 FORGED SIGNATURES ON IT FROM MR. POLLACE, THAT YOU  
14 WILL SEE THAT ON THOSE DOCUMENTS THERE'S  
15 REPRESENTATIONS MADE THAT HU'S FUNDS WILL PROVIDE  
16 THE TAX DOCUMENTS, HE'S PROMISING THAT. HE NEVER  
17 PROVIDES THE K1 FORM.

18 THERE'S VARIOUS EXPLANATIONS. HE SAYS  
19 IT'S READY BUT IT NEVER GOES ON THERE, IT NEVER  
20 GETS TO MR. VERDIELL. YOU CAN CONSIDER THOSE VERY  
21 EXPLANATIONS AS EVIDENCE THAT THE DEFENDANT IS  
22 ACTING WITH AN INTENT TO CHEAT AND TO DECEIVE.

23 OTHER VARYING EXPLANATION THAT  
24 MR. VERDIELL TESTIFIED ABOUT. THERE WAS AN ISSUE  
25 WITH THE U.S. GOVERNMENT THAT WAS BLOCKING THE

1 RETURN OF THE FUNDS, THAT THERE WAS AN ISSUE WITH A  
2 BROKER THAT SUPPOSEDLY WAS BLOCKING THE RETURN OF  
3 THE FUNDS. THESE ARE ALL ADDITIONAL VARYING  
4 CHANGING STORIES THAT MR. HU IS PROVIDING  
5 MR. VERDIELL. APPARENTLY SOME STATEMENT ABOUT  
6 MR. HU TELLS MR. VERDIELL THERE'S AN ISSUE ABOUT  
7 BOB LIN BEING WELL KNOWN AND THAT THAT SOMEHOW IS A  
8 PROBLEM WITH HIM RETURNING MR. VERDIELL'S MONEY.

9 AGAIN, THE EXPLANATIONS CHANGE AND IT'S  
10 EVIDENCE THAT THE DEFENDANT HAD AN INTENT TO  
11 DEFRAUD.

12 THERE'S ALSO -- YOU HEARD EVIDENCE FROM  
13 GRACE DOONG ABOUT A SEPTEMBER 2008 WEBEX CALL. YOU  
14 MAY RECALL THIS. MS. DOONG TALKED ABOUT THE FACT  
15 THAT SHE AND THIS IS LATE IN THE GAME, MS. DOONG  
16 ALSO TESTIFIED THAT I MENTIONED SHE HAD -- ALBERT  
17 HU CO-SIGNED THE DOCUMENTS IN A DESPERATE ATTEMPT  
18 TO GET HIM TO LIVE UP TO THE PROMISES HE MADE,  
19 UNSUCCESSFUL AS IT TURNED OUT. SHE LOST A LOT OF  
20 MONEY.

21 THERE'S A SEPTEMBER 2008 WEBEX CALL, A  
22 DOCUMENT IN EXHIBIT 63 RELATED TO GRACE DOONG.  
23 THERE'S A WEBEX SORT OF AN INTERNET CALL AND SHE'S  
24 TRYING DESPERATELY TO GET HER MONEY BACK. ALBERT  
25 HU IS STILL MAKING FALSE STATEMENTS IN



1        SEPTEMBER 2008.  HE'S MAKING FALSE STATEMENTS.  
2        THERE'S REPRESENTATIONS HE MAKES TO INVESTORS THAT  
3        HIS FUNDS HAVE A VALUE OF OVER \$200 MILLION.  A  
4        REPRESENTATION HE'S MAKING IN SEPTEMBER 2008.

5                THIS IS A YEAR AFTER THE -- ALMOST A YEAR  
6        AFTER THE OCTOBER 2007 TIME FRAME WHERE HE'S BURNED  
7        THROUGH ALL OF MR. VERDIELL AND MR. LIN'S MONEY.

8                AND WHAT DID THE TESTIMONY FROM MS. DOONG  
9        INDICATE, THAT SHE ACTUALLY -- SHE DIDN'T GET ANY  
10        DOCUMENTS OUT OF THIS CALL BUT SHE TAKES A CAMERA  
11        AND SHE TAKES A PICTURE OF THE SCREEN FROM THE  
12        WEBEX CALL.  AND IT'S NOT A GREAT COPY, IT'S WHAT  
13        WE HAVE IN EXHIBIT 63, YOU SEE A PICTURE THAT WAS  
14        TAKEN OF THE SCREEN SHOWING THAT THE DOCUMENT THAT  
15        MR. HU IS REPRESENTING THAT THE VALUE OF HIS FUNDS  
16        ARE WELL OVER \$200 MILLION IN OCTOBER 2008.

17                WHAT DOES IT SHOW?  IT SHOWS A PATTERN OF  
18        BEHAVIOR A PATTERN OF FALSE STATEMENTS A PATTERN OF  
19        MISREPRESENTATIONS AND THAT'S ALL EVIDENCE THAT YOU  
20        CAN CONSIDER IN CONSIDERING WHETHER THE DEFENDANT  
21        HAD AN INTENT TO DEFRAUD.

22                ALSO IN TERMS OF WHETHER THE DEFENDANT  
23        ACTED WITH INTENT TO DEFRAUD YOU CAN KEEP AN  
24        ACCOUNT OF WHAT WAS MENTIONED IN THE FINANCIAL  
25        ANALYSIS.  THE DEFENDANT SPENT INVESTOR'S MONEY ON

1 HIMSELF AND FOR OTHER NON INVESTMENT PURPOSES.

2 THE FACT THAT HE DID NOT DO WHAT HE  
3 PROMISED TO DO WITH THE MONEY WHAT HE DID IN  
4 WRITING AND ORALLY HE DID NOT INVEST THE MONEY IN  
5 HIGH-TECH STOCKS AND IN A LIMITED INSTANCE WITH  
6 MR. VERDIELL, IT NEVER WENT TO MR. VERDIELL'S  
7 BENEFIT, HE WAS INTENDING TO DECEIVE AND CHEAT  
8 PEOPLE.

9 OKAY. THE FINAL ELEMENT OF WIRE FRAUD IS  
10 KNOWINGLY. THE GOVERNMENT HAS TO PROVE BEYOND A  
11 REASONABLE DOUBT THAT THE DEFENDANT KNEW THAT THE  
12 PRETENSES, REPRESENTATIONS OR PROMISES WERE FALSE  
13 OR FRAUDULENT.

14 IT MEANS WE HAVE TO PROVE AT LEAST ONE OF  
15 THE VARIOUS FALSE AREAS OF FALSE PROMISES WE'VE  
16 GONE THROUGH, AT LEAST ONE OF THEM THE DEFENDANT  
17 KNEW THAT THAT PRETENSE, REPRESENTATION OR PROMISE  
18 WAS FALSE OR FRAUDULENT.

19 INSTRUCTIONS INDICATE THAT AN ACT IS KNOW  
20 DONE KNOWINGLY IF THE DEFENDANT IS AWARE OF THE  
21 FACT AND DOES NOT ACT THROUGH IGNORANCE, MISTAKE OR  
22 ACCIDENT. THE GOVERNMENT IS NOT REQUIRED TO PROVE  
23 THE DEFENDANT KNEW THESE ACTS OR OMISSIONS WERE  
24 UNLAWFUL. YOU MAY CONSIDER EVIDENCE OF THE WORDS,  
25 ACTS OR OMISSIONS ALONG WITH ALL THE OTHER EVIDENCE

1 IN DECIDING WHETHER THE ACTED KNOWINGLY.

2 SO HOW CAN YOU CONCLUDE ALBERT HU KNEW  
3 THE REPRESENTATIONS WERE FALSE? PRETTY  
4 STRAIGHTFORWARD, AND THE GOVERNMENT SUSPECTS THE  
5 EVIDENCE IS OVERWHELMING.

6 ALBERT HU RAN THE ASENQUA BETA FUND AND  
7 THE FIRESIDE LS FUND. HE WAS THE MAN IN CHARGE.  
8 HE'S THE ONE WHOSE NAME IS ON THE DOCUMENT HE'S IS  
9 SIGNING THE INVESTMENT DOCUMENTS.

10 THE SUBSCRIPTION BOOKLETS YOU SEE ALBERT  
11 HU'S SIGNATURE ON IT. HE'S SUBMITTING QUARTERLY  
12 STATEMENTS TO INVESTORS, STATEMENTS IN WHICH HE IS  
13 SIGNING IN WHICH HE'S INDICATING THAT IN SOME  
14 INSTANCES IT SAYS THE CHIEF INVESTMENT OFFICER.  
15 HE'S THE CHIEF INVESTMENT OFFICER RUNNING THE  
16 INVESTMENTS. ON OTHER DOCUMENTS ALBERT HU IS  
17 SAYING HE'S THE PRESIDENT. HE'S THE MAN IN CHARGE.  
18 HE TELLS INVESTORS HERE, THAT'S THE TESTIMONY, THAT  
19 HE WAS THE MAN IN CHARGE.

20 I WILL ALSO CONCLUDE THAT ALBERT HU KNEW  
21 HIS REPRESENTATIONS WERE FALSE? HE CONTROLLED THE  
22 MONEY. YOU HEARD TESTIMONY FROM AGENT FINE SUMMARY  
23 TESTIMONY SUMMARIZING DOCUMENT IT IS WHICH WERE  
24 ADMITTED INTO EVIDENCE. THOSE DOCUMENTS SHOW HOW  
25 ALBERT HU WAS CONTROLLING THE MONEY HE'S A

1       SIGNATORY ON THE ACCOUNTS.

2               THE INVESTORS, THE INVESTORS IN THIS CASE  
3       ARE WIRING MONEY AT ALBERT HU'S DIRECTION, HE'S  
4       TELLING THEM WIRE MONEY TO THIS ACCOUNT. TO  
5       ACCOUNTS THAT HE CONTROLS. BOTH IN THE  
6       UNITED STATES AND THEN LATER IN THE SCHEME THE  
7       MONEY IS BEING WIRED TO SINGAPORE.

8               THE FACT THAT ALBERT HU CONTROLLED THE  
9       MONEY, THE FACT THAT THE PATTERN OF BEHAVIOR THAT  
10      YOU SEE, MONEY NOT BEING SPENT FOR INVESTMENT  
11      PURPOSES, INSTEAD BEING SPENT ON PERSONAL ITEMS  
12      CHECK PERSONS CHECK CARDS COSTCO, STARBUCKS, FRY,  
13      ET CETERA, HE USED TO PAY PRIOR INVESTORS, PRIOR  
14      INVESTORS WITH ALBERT HU, MORE THAN ONE INSTANCE.  
15      MORE THAN ONE INVESTOR.

16              ALBERT HU IS CONTROLLING THE MONEY. IT  
17      SHOWS HE KNEW WHAT HE WAS DOING WAS FALSE. IF  
18      ALBERT HU CONTROLS THE MONEY AND HE SPENDS THE  
19      MONEY, HE KNOWS WHEN HE TELLS MR. VERDIELL AND  
20      MR. LIN THAT THEIR MONEY HAS EARNED HIGH RATES OF  
21      RETURN, HE KNOWS THAT THAT'S FALSE.

22              THAT'S JUST REASON AND COMMON SENSE. HE  
23      HAD DIRECT CONTACT WITH THE INVESTORS, AS I  
24      MENTIONED THE WITNESS TESTIMONY AND VARIOUS  
25      DOCUMENTS SHOW HE'S THE PERSON IN CHARGE, HE'S THE

1 FRONT MAN.

2 HU PROVIDED FRAUDULENT AND FORGED  
3 DOCUMENTS TO INVESTORS DOCUMENTS IN HIS NAME  
4 DOCUMENTS HE SIGNED. NUMEROUS DOCUMENTS PRESENTED  
5 AT NUMEROUS TIMES.

6 HU LEASED THE SPACE FOR CASTILLO, LYN,  
7 COHEN & VIJAY. THIS IS THE DOCUMENT WE TALKED  
8 ABOUT EARLIER. HIS SIGNATURE IS ON THAT DOCUMENT.  
9 HIS CREDIT CARD IS ON THAT DOCUMENT.

10 THE PARTIES HAVE STIPULATED BEYOND A  
11 REASONABLE DOUBT THAT THAT CREDIT CARD NUMBER IS  
12 ALBERT HU'S CREDIT CARD NUMBER. IS IT REALISTIC  
13 THAT ALBERT HU DID NOT KNOW THAT THEY WERE RENTING  
14 THE CASTILLO, LYN, COHEN & VIJAY SPACE? NO,  
15 BECAUSE IT'S REASONABLE FOR YOU TO INFER HE  
16 DIRECTED THE WHOLE PROCESS AS PART OF A PLAN TO  
17 CREATE A FAKE AUDITING FIRM TO LULL HIS INVESTORS  
18 TO GIVE THEM A FALSE SENSE OF SECURITY THAT THEY  
19 COULD TRUST HIM WITH LARGE AMOUNTS OF MONEY BECAUSE  
20 SOMEONE ELSE WAS, SOMEONE INDEPENDENT THAT WAS  
21 WATCHING IT.

22 ALBERT HU ALSO PROMISED TO RETURN  
23 INVESTORS EVEN WHEN THE MONEY WAS ESSENTIALLY GONE.  
24 SO TAKING A LOOK AT THIS HE RAN THE FUNDS  
25 CONTROLLED THE MONEY HAD DIRECT CONTACT WITH

1 INVESTORS PROVIDED THE FRAUDULENT DOCUMENTS, LEASED  
2 THE SPACE, PROMISED TO RETURN THE MONEY EVEN WHEN  
3 THE MONEY WAS ESSENTIALLY GONE.

4 THE GOVERNMENT WILL RESPECTFUL I SUBMIT  
5 THAT ANY ONE OF THE VARIOUS FRAUDULENT PROMISE THAT  
6 IS WE SUBMITTED THAT WE HAVE GONE OVER WOULD BE  
7 SUFFICIENT PROVIDING YOU FIND THE OTHER ELEMENTS  
8 FOR A VERDICT OF GUILTY, EACH OF THEM THE EVIDENCE  
9 ON EACH IS SUBSTANTIAL.

10 AND WHEN VIEWED IN WHOLE, TAKE A LOOK AT  
11 THE WHOLE PICTURE, THE WHOLE PATTERN AND BEHAVIOR  
12 ALL THE VARIOUS FALSE STATEMENTS, THAT THIS IS BOTH  
13 A STRAIGHTFORWARD CASE AND ONE IN WHICH THE  
14 EVIDENCE OF ALBERT HU'S GUILTY IS TRULY  
15 OVERWHELMING.

16 AND AT THE CLOSE OF THIS CASE, WE WILL  
17 RESPECTFULLY SUBMIT THAT YOU SHOULD ENTER A VERDICT  
18 OF GUILTY ON ALL SEVEN COUNTS OF WIRE FRAUD.

19 THANK YOU.

20 THE COURT: ALL RIGHT. WE WILL TAKE  
21 MORNING RECESS FOR 15 MINUTES.

22 (WHEREUPON A RECESS WAS TAKEN.)

23 (WHEREUPON, THE FOLLOWING PROCEEDINGS  
24 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

25 THE COURT: WHAT'S UP?

1 MR. FAZIOLI: YOUR HONOR, JUST A QUICK  
2 ISSUE.

3 WE APPRECIATE THE DEFENSE GAVE US A LIST  
4 OF BULLET POINTS FOR THEIR CLOSING AND I WANT TO  
5 HIGHLIGHT ONE ISSUE WHICH IS THAT THERE'S  
6 REFERENCES TO THE NOBLE LAW GROUP AND PILLSBURY  
7 WINTHROP. AND AS THE COURT MAY RECALL, THE  
8 DOCUMENT, THERE WERE CHECKS THAT WERE ADMITTED INTO  
9 EVIDENCE, BUT MY UNDERSTANDING WAS, AND THE COURT  
10 CAN CORRECT ME, THAT THOSE WERE ADMITTED FOR A VERY  
11 LIMITED PURPOSE AND WE WANT TO AVOID A CIRCUMSTANCE  
12 WHERE WE MIGHT HAVE TO OBJECT IN TERMS OF REALLY  
13 THERE'S REFERENCES IN THE DOCUMENTS AND THEN THERE  
14 ARE JUST CHECKS MADE OUT TO A PARTICULAR ENTITY.

15 AND WE WOULD HAVE SOME CONCERNS ABOUT IN  
16 LIGHT OF THE FACT THERE WASN'T WITNESS TESTIMONY,  
17 ARGUMENT GOING BEYOND THE FACT THERE WERE CHECK AND  
18 REFERENCES IN THE DOCUMENTS. I WANT TO HIGHLIGHT  
19 THAT BEFORE THE CLOSE TO POSSIBLY AVOID AN ISSUE.

20 MR. FONG: YOUR HONOR, I'M NOT QUITE SURE  
21 WHAT THE GOVERNMENT'S CONCERN IS AND CERTAINLY THE  
22 GOVERNMENT IS FREE TO OBJECT IF I DO ANYTHING  
23 IMPROPER.

24 HOWEVER, MY STATEMENT TO THE COURT IS  
25 CLEAR, WHAT THOSE CHECKS, THE CHECKS WERE PROOF

1        THAT PAYMENTS WERE MADE TO THIS LAW FIRM.  NOW,  
2        WHATEVER INFERENCE PEOPLE WANT TO DRAW FROM THAT,  
3        THAT'S CERTAINLY FREE FOR PEOPLE TO ARGUE.  BUT I'M  
4        NOT GOING TO SAY THAT THIS CHECK WAS PAID, THE  
5        EVIDENCE SHOWS THAT THIS CHECK WAS PAID FOR THE  
6        PREPARATION OF THE PPM, FOR EXAMPLE.

7                I'M GOING TO SAY, I'M JUST GOING TO SAY,  
8        IT IS WHAT IT IS.

9                THE COURT:  I THINK THAT'S ALL RIGHT.

10               MR. FAZIOLI:  OKAY.

11               (WHEREUPON, THE FOLLOWING PROCEEDINGS  
12        WERE HELD IN THE PRESENCE OF THE JURY:)

13               THE COURT:  ALL RIGHT, MR. FONG, DO YOU  
14        WISH TO MAKE A CLOSING ARGUMENT?

15               MR. FONG:  YES, I DO.

16

17               **CLOSING ARGUMENTS BY MR. FONG**

18

19               THANK YOU, YOUR HONOR.  MS. GARCIA,  
20        MS. FISHER, MR. FAZIOLI, MS. BURNEY AND SPECIAL  
21        AGENT FINE.

22               LADIES AND GENTLEMEN OF THE JURY, NOW IS  
23        MY OPPORTUNITY TO PRESENT THE CLOSING ARGUMENT ON  
24        BEHALF OF DEFENDANT ALBERT HU LET.

25               THINGS LIKE CRIMES LIKE WIRE FRAUD, CAN



1 BE COMPLICATED BOTH LEGALLY AND FACTUALLY.  
2 OBVIOUSLY WHAT THE ATTORNEYS ON BOTH SIDES OF THIS  
3 CASE HAVE TRIED TO DO IS TO PRESENT THINGS TO YOU  
4 IN A WAY THAT HOPEFULLY WILL MAKE THE MOST SENSE  
5 FROM EACH SIDE'S PERSPECTIVE.

6 LET ME, BEFORE I BEGIN TALKING TO YOU  
7 ABOUT THIS DOCUMENT, THAT DOCUMENT, THIS WITNESS  
8 SAID THIS, THAT WITNESS SAID THAT, LET ME KIND OF  
9 IF I MAY, PUT THINGS IN A LITTLE BIT OF A COMMON  
10 SENSE PERSPECTIVE.

11 NOW IN MY OPENING STATEMENT I SAID TO YOU  
12 THAT HEY, YEAH, THERE PROBABLY WERE FALSE  
13 STATEMENTS, FALSE REPRESENTATIONS, BUT THE KEY IS  
14 WERE THEY MATERIAL? WERE THEY MATERIAL? DID THEY  
15 HAVE A NATURAL TENDENCY TO INFLUENCE OR WERE  
16 CAPABLE OF INFLUENCING NOT JUST THE AVERAGE PERSON  
17 THROUGHOUT THE UNITED STATES, BUT AN INVESTOR TO  
18 MAKE THE KIND OF INVESTMENT THAT WE HAVE SEEN IN  
19 THIS PARTICULAR CASE.

20 WE'RE NOT EVEN TALKING ABOUT AN INVESTOR  
21 WHO OCCASIONALLY SETS ASIDE \$25, AND I'LL JUST PUT  
22 THIS BY A SHARE ON FACEBOOK OR WHATEVER AND  
23 HOPEFULLY IT WILL JUST GO THROUGH THE ROOF.

24 THE INVESTORS WERE TALKING ABOUT IN THIS  
25 CASE, YOU HEARD THEM ON THE WITNESS STAND,

1 INVESTORS WHO ARE PEOPLE WHO ARE INCREDIBLY SAVVY,  
2 WHO HAVE BEEN INCREDIBLY SUCCESSFUL, WHO ARE VERY  
3 HIGH-TECH INDUSTRY ORIENTED AND THEY HAVE HAD TRACK  
4 RECORDS OF SUCCESS. THEY HOLD POWERS AND THEY HAVE  
5 POSITIONS OF POWER, AUTHORITY AND RESPONSIBILITY.

6 AND MOST OF ALL WE ARE TALKING ABOUT  
7 INVESTORS WHO ARE CAPABLE OF MAKING A DECISION OF  
8 WHETHER OR NOT SOMETHING IS GOING TO INFLUENCE ME,  
9 THE POTENTIAL INVESTOR, IN NOT JUST INVESTING A  
10 HUNDRED DOLLARS OR A THOUSAND DOLLARS, NOT EVEN  
11 FIFTY THOUSAND DOLLARS, BUT AT THE VERY, VERY  
12 LEAST, HUNDREDS OF THOUSANDS OF DOLLARS. AND AS WE  
13 HAVE SEEN IN MR. VERDIELL'S CASE, TWO MILLION  
14 DOLLARS IN A SINGLE WIRE TRANSFER.

15 SO WHEN WE TALK ABOUT MATERIALITY AND  
16 WHEN WE LOOK AT THIS CASE, IT MUST BE SEEN IN TERMS  
17 OF WELL, WHAT IS -- WHAT WOULD NATURALLY INFLUENCE  
18 THE DECISION-MAKING PROCESS OF THIS TYPE OF  
19 INVESTOR.

20 LET ME TRY TO PUT THINGS IN A LITTLE BIT  
21 OF PERSPECTIVE BY GIVING YOU KIND OF A SIMPLE  
22 SCENARIO A HYPOTHETICAL SCENARIO. YOU AND I BOTH  
23 WORK FOR THIS COMPANY IN SILICON VALLEY, NOT THE  
24 BIGGEST NOT THE SMALLEST, JUST YOUR AVERAGE  
25 COMPANY. AND THE COMPANY HAS A LITTLE EMPLOYEE

1 WEBSITE, EACH PERSON CAN POST HIS OR HER BIO, I'M  
2 JOE, I'M JERRY, I'M MARY, I'M STEPHANIE, THIS IS  
3 WHAT I DO, DA DA DA DA, OKAY. I POST MY BIO  
4 SECTION IN THE COMPANY WEBSITE, SAY THAT I'M 6'4.  
5 IT TURNS OUT MY ACTUAL HEIGHT I LIKE TO SAY 5'9 BUT  
6 IT'S REALLY CLOSER TO 5'8, NOT 6'4.

7 NOW IS MY STATEMENT THAT I'M 6'4 INSTEAD  
8 OF I'M GOING TO GIVE MYSELF THE BENEFIT OF THE  
9 DOUBT HERE, 5'8, IS THAT MATERIAL? WELL, IT  
10 DEPENDS ON THE TARGET AUDIENCE AND THE REASON  
11 BEHIND THE CONNECTION.

12 IF YOU ARE LOOKING AT MY BIO THINKING OF  
13 ME AS A POTENTIAL DATE OR A POTENTIAL PERSON TO GET  
14 INVOLVED IN A PERSONAL RELATIONSHIP, YEAH. I WOULD  
15 SAY WHETHER I'M 6'4 VERSUS 5'8, PROBABLY WOULD HAVE  
16 A NATURAL TENDENCY TO INFLUENCE YOUR DECISION OF  
17 WHETHER OR NOT YOU WANT TO GET TOGETHER WITH ME.

18 OR IF YOU'RE SURFING THE COMPANY WEBSITE  
19 FOR PEOPLE TO JOIN YOUR BASKETBALL TEAM, WHETHER OR  
20 NOT I'M 6'4 VERSUS 5'8, WOULD HAVE A NATURAL  
21 TENDENCY TO INFLUENCE YOUR DECISION OF WHETHER OR  
22 NOT IT'S EVEN WORTHWHILE TO SEND AN E-MAIL SAYING  
23 HEY JERRY, DO YOU WANT TO DO THIS?

24 BUT WHAT IF YOU'RE SURFING THE COMPANY  
25 WEBSITE TO FIND A FOURTH PERSON FOR A BRIDGE GAME

1        THAT YOU WANT TO HAVE, YOU NEED A FOURTH BECAUSE  
2        THE REGULAR FOURTH PERSON DROPPED OUT. SO YOU SEE  
3        JERRY FONG CAN PLAY BRIDGE, AVERAGE INTELLIGENCE,  
4        NOW, THE FACT THAT I TRY TO PASS MYSELF OFF AS 6'4  
5        VERSUS MY REAL HEIGHT 5'8, BECAUSE THE PURPOSE YOU  
6        ARE LOOKING AT THAT INFORMATION, IT WOULD NOT HAVE  
7        NEARLY THE NATURAL TENDENCY TO INFLUENCE YOUR  
8        DECISION OF WHETHER OR NOT YOU WANT TO CONTACT ME  
9        TO BE YOUR FOURTH IN BRIDGE.

10                ESPECIALLY IF FOR WHATEVER REASON YOU'RE  
11        A LITTLE BIT DESPERATE THAT WEEKEND, YOU NEED THE  
12        FOURTH, YOU ARE COMPETING IN A TOURNAMENT, YOU  
13        REALLY REALLY NEED THE FOURTH, JUST ONE BODY, THEN  
14        IN TERMS OF MATERIALITY, THE FACT THAT I MISREAD  
15        YOU ABOUT BEING 6'4 WOULD NOT BE NEARLY AS  
16        MATERIAL.

17                IT WOULD NOT BE THE KIND OF THING THAT  
18        WOULD INFLUENCE YOUR DECISION ON WHETHER OR NOT YOU  
19        JUST WANT A WARM BODY BECAUSE YOU NEED THE FOURTH  
20        PERSON EACH THOUGH IT TURNS OUT HE'S 5'8.

21                SO KEEP THAT SCENARIO IN MIND AS WE GO  
22        THROUGH THE EVIDENCE AND THE LAW IN THIS CASE.

23                NOW, YOU WILL GET THE INSTRUCTIONS FROM  
24        THE JUDGE AND OF COURSE YOU HAVE ALREADY SEEN SOME  
25        OF THE GOVERNMENT'S PRESENTATION OF WHAT THE

1 INSTRUCTIONS WILL SAY. AND THE INSTRUCTIONS ARE  
2 THE LAW THAT YOU MUST FOLLOW.

3 I DON'T WANT TO REPEAT A LOT OF THINGS I  
4 JUST WANT TO EMPHASIZE A COUPLE OF THING IT IS. MY  
5 HIGH-TECH HIGHLIGHTING.

6 NOW, I SHOULD PREFACE THIS BY SAYING,  
7 LIKE ANYTHING ELSE, THE JURY INSTRUCTION IN LIGHT  
8 OF HOW YOU LOOK AT THIS CASE, HOW YOU EVALUATE THIS  
9 CASE, ONLY BY KIND OF LOOKING AT THINGS AS AN  
10 INTEGRATED WHOLE AND NOT TRY TO ISOLATE ONE BIT  
11 HERE AND THERE.

12 AND WHAT I WANT TO DO IN THE NEXT COUPLE  
13 SECONDS IS TO KIND OF BRING TOGETHER TWO IMPORTANT  
14 CONCEPTS IN TWO DIFFERENT JURY INSTRUCTIONS.

15 THIS ONE IS THE FIRST ELEMENT FOR A WIRE  
16 FRAUD CRIME. NOW, IT JUST SAYS THAT ALL OF YOU  
17 MUST UNANIMOUSLY AGREE ON AT LEAST ONE PARTICULAR  
18 FRAUDULENT OR FALSE STATEMENT OR REPRESENTATION  
19 THAT MR. HU SUPPOSEDLY MADE. OKAY.

20 AND GOING BACK TO MATERIALITY, IT ISN'T  
21 JUST ANY FALSE STATEMENT OR REPRESENTATION, BUT IT  
22 MUST BE MATERIAL. AND AGAIN, I KNOW YOU'VE SEEN  
23 THIS BEFORE, BUT MATERIALITY, WHAT IS MATERIALITY?

24 A FALSE OR FRAUDULENT REPRESENTATION OR  
25 PROMISE IS MATERIAL IF IT HAD A NATURAL TENDENCY TO

1 INFLUENCE OR WAS CAPABLE OF INFLUENCING A POTENTIAL  
2 INVESTOR TO PART WITH MONEY.

3 WE TALKED ABOUT, JERRY FONG, 6'4, IN  
4 REALITY 5'8. NOT SO GREAT IF YOU ARE THINKING OF  
5 DATING ME OR HAVING ME ON YOUR COMPANY BASKETBALL  
6 TEAM. NOT NEARLY IMPORTANT IF YOU ARE DESPERATELY  
7 NEEDING A FOURTH PERSON FOR BRIDGE.

8 NOW, WHAT IS IMPORTANT IS TO COMBINE WHAT  
9 YOU JUST SAW IN TERMS OF JURY INSTRUCTION 14 WITH  
10 THE NEXT ONE WHICH IS JURY INSTRUCTION 15. AND  
11 THIS IS A LIST OF, I BELIEVE SEVEN -- SEVEN FALSE  
12 STATEMENTS THAT MR. HU HAS BEEN CHARGED WITH  
13 COMMITTING IN THIS PARTICULAR CASE.

14 BUT WHAT IS IMPORTANT ABOUT THESE SEVEN  
15 STATEMENTS IS THAT IN ORDER TO CONVICT MR. HU, YOU  
16 MUST FIND THAT ONE OF THESE STATEMENTS WAS MADE BY  
17 MR. HU AND THAT IT WAS FALSE AND THAT MOST  
18 IMPORTANTLY, IT WAS MATERIAL.

19 NOW, WHAT THAT MEANS IS THAT YOU ARE  
20 LIMITED IN TERMS OF CONSIDERING WHETHER OR NOT TO  
21 CONVICT MR. HU BY THESE SEVEN STATEMENTS, SO THAT  
22 LET'S JUST SAY MR. HU SAID, I'M 6'4 -- YOU CANNOT  
23 SEE, HE'S SITTING DOWN, BUT I WILL REPRESENT TO YOU  
24 HE'S NOT 6'4.

25 EVEN IF YOU FIND THAT TO BE A FALSE

1 STATEMENT BECAUSE IT WAS NOT CHARGED, YOU CANNOT  
2 CONVICT MR. HU OF ANY CRIME UNLESS ALL 12 OF YOU  
3 FIND UNANIMOUSLY THAT MR. HU MADE ONE OF THESE  
4 STATEMENTS THAT IT WAS FALSE AND IT WAS MATERIAL.

5 NOW, I KNOW THAT TO GO DOWN THREE EACH  
6 AND EVERY ONE WOULD PROBABLY BE VERY TAXING FOR  
7 ANYBODY TO FOLLOW. BUT LET'S JUST TAKE ONE OF THE  
8 PROSKAUER LAW FIRM ALLEGATION THAT IT WAS A  
9 MISREPRESENTATION ABOUT THE PROSKAUER ROSE LAW FIRM  
10 BEING ENGAGED, HAVING BEEN RETAINED AS LEGAL  
11 COUNSEL FOR THE FIRESIDE LS FUND.

12 THE TESTIMONY IS UNCONTRADICTED. THAT  
13 DID NOT HAPPEN. THAT DID NOT HAPPEN. HOWEVER, WAS  
14 IT MATERIAL? AND LET ME SHOW YOU A CHART THAT I  
15 PREPARED WHICH KIND OF SUMMARIZES WHAT I CALL,  
16 ATTORNEYS GONE WILD CHART. IT SHOWS THAT THERE ARE  
17 SO MANY SUBSCRIPTION BOOKLETS AND PPM'S IN THIS  
18 CASE FOR THIS FUND, FOR THAT FUND. SO WHAT I  
19 THOUGHT I WOULD DO IS SUMMARIZE THEM ALL ON THAT  
20 PAGE FOR YOU. THERE ARE FIVE OF THEM. THE  
21 SUBSCRIPTION BOOKLET AND THE ASENQUA BETA FUND PPM.

22 NOW THE ASENQUA BETA FUND BOOKLET LISTED  
23 HELLER ERHMAN LISTED AS THE FIRM FOR THE FUND. AND  
24 THE ASENQUA BETA PPM LISTED THE NOBLE LAW GROUP AS  
25 THE ATTORNEY FOR THE FUND.

1           NOW WHAT'S IMPORTANT ABOUT THESE TWO  
2       DOCUMENTS WAS THAT THESE WERE THE DOCUMENT THAT IS  
3       BOB LIN SAW AND SUPPOSEDLY READ CAREFULLY AND  
4       SUPPOSEDLY RELIED ON WHEN HE MADE HIS FIRST THREE  
5       INVESTMENTS. BECAUSE WHAT HE INVESTED IN FIRST WAS  
6       THE ASENQUA BETA FUND. HE DID NOT INITIALLY INVEST  
7       IN THE FIRESIDE, SO OF COURSE HE COULD NOT HAVE  
8       BEEN GIVEN OR RELIED ON OR READ THE FIRESIDE  
9       DOCUMENTS.

10           SO WHAT WAS REPRESENTED TO MR. BOB LIN  
11       WHEN HE MADE THE INITIAL INVESTMENTS, WAS HE WAS  
12       LISTED AS THE ATTORNEY FOR THE FUND. AND THE NOBLE  
13       LAW GROUP WAS LISTED AS THE ATTORNEY FOR THE FUND  
14       IN THE ASENQUA BETA FUND PPM. TWO DIFFERENT LAW  
15       FIRMS JOCKEYING FOR THE SAME POSITION IN TWO  
16       DIFFERENT DOCUMENTS GIVEN BY THE ASENQUA BETA FUND  
17       PEOPLE, BY MR. HU.

18           NOW LET'S GO BACK TO OUR SCENARIO. IF I  
19       HAD TOLD YOU ON MY WEBSITE THAT I'M 6'4 BUT ALSO  
20       LATER ON IN ANOTHER PART OF THE WEBSITE MY LITTLE  
21       BIO SECTION I SAY ACTUALLY I'M 5'8. NOW, IF YOU  
22       CARED HOW IMPORTANT IT WAS TO YOU HOW TALL I REALLY  
23       AM, YOU WOULD HAVE PICKED OUT THE DISCREPANCY AND  
24       YOU WOULD HAVE ASKED QUESTIONS ABOUT IT.

25           NOW, THERE ACTUALLY IS NO PROOF THAT ONE



1 WAY OR THE OTHER THAT HELLER ERHMAN WAS NOT THE  
2 ATTORNEY FOR THE FUND. NO EVIDENCE WHATSOEVER.  
3 AND REMEMBER, THE GOVERNMENT HAS THE BURDEN OF  
4 PROOF.

5 THE NOBLE LAW GROUP, WHAT YOU HAVE SEEN  
6 AS EVIDENCE IS THAT THERE WERE 3 OR 4 CHECKS MADE  
7 PAYABLE TO THE NOBLE LAW GROUP. NOW, THE CHECKS  
8 WERE NOT PAID OUT OF THE ASENQUA BETA FUND ACCOUNT.  
9 I WILL BE THE FIRST TO ADMIT THAT. THEY CAME FROM  
10 AN ENTITY BY THE NAME OF ASENQUA VENTURES  
11 MANAGEMENT.

12 BUT YOU HAVE SEEN SOME OF THE POWERPOINT  
13 PRESENTATIONS. THERE WAS, AND YOU MIGHT REMEMBER,  
14 I WILL SHOW IT TO YOU IN A SECOND, THERE WAS AN  
15 ASENQUA ORGANIZATIONAL CHART, A FAMILY TREE, IF YOU  
16 WILL, IS CLEAR FROM THE EVIDENCE THAT THE ASENQUA  
17 ENTITIES WERE NOT ISOLATED ENTITIES. EACH ONE WAS  
18 COMPARTMENTALIZED AND ONE NEVER MET THE OTHER.  
19 THEY WERE ALL PART OF THIS ASENQUA FAMILY, FOR LACK  
20 OF A BETTER TERM.

21 WHAT WE DO KNOW, WHAT THE EVIDENCE SHOWS  
22 IS THAT THE NOBLE LAW GROUP WAS PAID BY AN ASENQUA  
23 ENTITY, THE ASENQUA VENTURES MANAGEMENT.

24 WHAT'S INTERESTING IS THAT MR. LIN WAS ON  
25 THE STAND FOR QUITE A WHILE. HE SAID A LOT OF

1 THINGS. WHAT'S INTERESTING IS THAT HE NEVER  
2 TESTIFIED ABOUT WHAT LAW FIRM HE RELIED ON WHEN HE  
3 FIRST MADE HIS INVESTMENT. BECAUSE OF COURSE THAT  
4 WOULD HAVE BEEN THE IMPORTANT POINT THAT -- SO NOT  
5 WHAT YOU MIGHT DO AFTER YOU HAVE ALREADY MADE THE  
6 INVESTMENT. MR. LIN DID NOT SAY, WELL, I RELIED ON  
7 HELLER ERHMAN, I RELIED ON NOBLE LAW GROUP.

8 AND THERE'S PROBABLY GOOD REASON FOR THAT  
9 BECAUSE THERE'S NO EVIDENCE THAT EITHER STATEMENT  
10 WOULD BE -- IS FALSE.

11 NOW, COMMON SENSE TELLS YOU, WELL, HOW  
12 COULD THERE BE TWO LAW FIRMS? AGAIN, THAT ONLY  
13 GOES TO PROVE THAT MR. LIN DID NOT CARE. HE DID  
14 NOT CONSIDER THIS TO BE AN IMPORTANT FACTOR AT ALL.  
15 BECAUSE IF HE WAS CONCERNED, HE WOULD HAVE SAID  
16 WAIT A MINUTE, HELLER ERHMAN, NOBLE LAW GROUP, HEY  
17 ALBERT HU, WHICH ONE IS IT?

18 BECAUSE IF YOU SAW ON MY WEBSITE THAT I'M  
19 6'4 ON ONE PAGE AND 5'8 ON THE OTHER AND YOU WANT  
20 ME ON YOUR BASKETBALL TEAM OR YOU WANT ME AS A  
21 POTENTIAL LIFETIME PARTNER, YOU WOULD SAY JERRY,  
22 WHAT IS GOING ON? YOU WOULD CARE, IT WOULD BE  
23 IMPORTANT TO YOU BECAUSE IT WOULD HAVE A NATURAL  
24 TENDENCY TO INFLUENCE YOUR DECISION MAKING.

25 THE REASON WHY MR. LIN DID NOT BOTHER

1 SAYING ANYTHING IS BECAUSE QUITE FRANKLY HE DID NOT  
2 CARE. IT WAS NOT IMPORTANT TO HIM.

3 HOWEVER, HE CONVENIENTLY -- NOW, HE  
4 TESTIFIED, AND WHEN I SAY CONVENIENTLY, MR. LIN DID  
5 NOT GET HIS INVESTMENT BACK. IT'S UNDERSTANDABLE  
6 THAT MR. LIN WOULD WANT TO DO THINGS IN HIS FAVOR.

7 NOW, MR. LIN TESTIFIED THE PROSKAUER ROSE  
8 REPRESENTATION WAS SO IMPORTANT, IN FACT, HE  
9 TESTIFIED THAT IT WAS ONE OF THE MOST IMPORTANT  
10 THINGS ABOUT HIS SUBSCRIPTION OR HIS TRANSFERRING  
11 HIS MONEY FROM ASENQUA BETA FUND TO THE FIRESIDE  
12 FUND.

13 WELL, WHAT'S INTERESTING IS THAT, OF  
14 COURSE, THIS DID NOT COME UP UNTIL WELL AFTER HE  
15 HAD ALREADY PUT HIS MONEY IN THE ASENQUA BETA FUND.

16 NOW, WHY WOULD IT BE THAT SOMEHOW AFTER  
17 PUTTING IN \$450,000, I BELIEVE, \$450,000 INTO A  
18 FUND BECAUSE YOU CONSIDERED WHO IS THE ATTORNEY TO  
19 BE SO IMPORTANT, WHY IS IT THAT SUDDENLY THIS  
20 BECAME IMPORTANT BUT NOT THIS AND NOT THIS BEFORE  
21 YOU MADE YOUR DECISION TO INVEST IN THE FIRST  
22 PLACE?

23 I SUBMIT THAT THE ANSWER IS MR. LIN WAS  
24 SIMPLY NOT CREDIBLE WHEN HE SAID, OH, YES, THE  
25 PROSKAUER ROSE LAW FIRM, THAT STATEMENT, THAT DID

1 IT FOR ME.

2 NOW, LET'S LOOK A LITTLE BIT FURTHER,  
3 OKAY. LET'S JUST TAKE THAT ON ITS FACE. NOW, AT  
4 THE SAME TIME THAT MR. LIN WAS READING THIS  
5 REPRESENTATION ABOUT THE PROSKAUER ROSE LAW FIRM  
6 BEING THE ONE AND ONLY TRUE LAW FIRM FOR THE  
7 FIRESIDE FUND, OF COURSE HE WOULD HAVE BEEN GIVEN,  
8 HE WOULD HAVE READ THE FIRESIDE LS FUND PPM.

9 NOW, HIS TESTIMONY WAS THAT HE DID NOT  
10 SAY THAT HE ACTUALLY READ THAT WITH A FINE TOOTH  
11 COMB OR ANYTHING.

12 IN FACT -- HE DID NOT SAY THAT HE  
13 REMEMBERS ABOUT THE PPM. HOWEVER, IF THIS WAS SO  
14 IMPORTANT TO MR. LIN, WHY WOULD HE NOT HAVE LOOKED  
15 AT THE PRIVATE PLACEMENT MEMORANDUM, WHICH ACTUALLY  
16 AS YOU HAVE SEEN, CONTAINS THE SUBSTANTIVE  
17 WARNINGS, THE CONDITIONS, THE LAWYER LEGAL EASE  
18 ABOUT WARNING THIS, WARNING THAT, THIS IS WHAT YOU  
19 ARE GETTING INTO.

20 WHY WOULD HE NOT HAVE NOTICED THAT THE  
21 FIRESIDE FUND'S PRIVATE PLACEMENT MEMO, WHICH WAS  
22 IN EXISTENCE AT THE SAME TIME AS THE SUBSCRIPTION  
23 BOOKLET, HAD PILLSBURY WINTHROP LAW FIRM WAS NAMED  
24 AS THE LEGAL COUNSEL FOR THE FIRESIDE FUND. WHY  
25 DID MR. LIN NOT CARE THERE WAS A DISCREPANCY

1 BETWEEN THE TWO AND WHY DID HE TESTIFY THE WAY HE  
2 DID?

3 THE EVIDENCE SHOWS THAT THERE WERE THREE  
4 CHECKS FROM THE ASENQUA VENTURES MANAGEMENT BANK  
5 ACCOUNT PAYABLE TO THE PILLSBURY WINTHROP LAW FIRM.  
6 AND THE AMOUNT OF MONEY, I BELIEVE, WAS \$25,000.  
7 THE CHECKS ARE EXHIBITS AND THEY ARE EVIDENCE SO  
8 THAT YOU CAN LOOK AT THEM FOR YOURSELF AND DON'T  
9 TAKE MY ADDITION.

10 BUT THE EVIDENCE IS THAT PILLSBURY WAS  
11 LISTED AS THE ATTORNEY FOR THE FIRESIDE FUND IN THE  
12 PPM FOR ANYBODY WHO CARED. AND THE EVIDENCE IS  
13 THAT ASENQUA ENTITIES, THE ASENQUA MANAGEMENT PAID  
14 ABOUT \$5,000 TO PILLSBURY.

15 SO THAT SHOULD PUT IN PERSPECTIVE WHAT  
16 WAS IMPORTANT TO BOB LIN.

17 NOW, THAT IS SIGNIFICANT INFORMATION;  
18 HOWEVER, THERE'S A LOT MORE. BOB LIN TESTIFIED  
19 ABOUT HIS TRUE REASONS FOR GETTING INTO THIS  
20 INVESTMENT. HE SAID, LOOK, I WAS REALLY IMPRESSED  
21 BY THE OTHER INVESTORS WHO WERE ON THE ROSTER OF  
22 THE ASENQUA BETA FUND.

23 HE SPECIFICALLY MENTIONED ONE GENTLEMAN,  
24 LONG LIU OR COULD HAVE BEEN -- LIU. AND THIS  
25 GENTLEMAN WAS IMPRESSIVE BECAUSE HE WAS THE OWNER

1 OR THE CHAIR OR THE PRINCIPAL OF A COMPANY CALLED  
2 UPSTARCOM.

3 THAT WAS WHAT IMPRESSED MR. LIN. HE  
4 WANTED TO GET IN ON THE INVESTMENT BECAUSE IT WOULD  
5 MAKE HIM PRESTIGIOUS AND IT WOULD ALLOW HIM TO SAY  
6 THAT HE WAS NOW AFFILIATED WITH THE ASENQUA FAMILY.

7 WHY DO WE KNOW THAT'S IMPORTANT TO HIM?  
8 THIS IS EXHIBIT 16, DEFENDANT'S EXHIBIT 16.

9 MR. LIN AS THE CHAIRPERSON OF THIS ORGANIZATION,  
10 MONTE JADE WHICH HE SAID WAS A NETWORKING  
11 ASSOCIATION FOR ASIAN AMERICAN HIGH-TECH BUSINESS  
12 PEOPLE WHOSE MEMBERS IN THIS AREA NUMBER SEVERAL  
13 THOUSANDS, MR. LIN WAS THE CHAIRPERSON OR CHAIRMAN  
14 IN 2007 WHEN THEY HAD THEIR CONFERENCE AND MR. LIN  
15 GAVE A WELCOMING MESSAGE. AND MR. LIN, THIS IS IN  
16 2007, AT LEAST ONE YEAR AFTER HE HAD MADE HIS  
17 INITIAL INVESTMENT IN DECEMBER OF 2005 IN THE  
18 ASENQUA BETA FUND.

19 WHAT DOES MR. LIN SAY WHO I AM? I'M YOUR  
20 PRESIDENT. I'M THE FOUNDER OF MULTI DIMENSIONAL  
21 VENTURE PARTNERS, MANAGING PARTNER, ASENQUA  
22 VENTURES. MR. LIN WANTED TO BE ASSOCIATED WITH  
23 ASENQUA BECAUSE HE THOUGHT THEY WERE AND ARE A  
24 BRAND, AND IT'S IMPORTANT AS A NETWORKING KING TO  
25 BE INVOLVED IN THAT KIND OF A BUSINESS VENTURE.

1           AND HE SAID I HAVE A LOT OF EXPERIENCE IN  
2           STARTUPS BUT I ALSO LIKE THE FACT THAT I WANT TO  
3           GET INTO AN AREA WHERE THE VENTURE CAPITAL, THE  
4           STARTUP INVESTMENT AND THE HEDGE FUNDS INVESTMENT  
5           WOULD KIND OF ACHIEVE THIS INTEGRATION SYNERGY AND  
6           EACH SIDE WOULD BE HELPING EACH OTHER.

7           HE WROTE AN ARTICLE IN CHINESE IN ONE OF  
8           TAIWAN'S LEADING ECONOMIC PAPERS ABOUT THE SYNERGY  
9           ABOUT HOW IT'S GREAT TO HAVE A VENTURE CAPITAL  
10          INVESTMENT PORTFOLIO BUT, MAN, IF YOU DID INTEGRATE  
11          THE TWO SO THAT INFORMATION WOULD FLOW FROM THE  
12          PUBLIC COMPANY INVESTMENT, THE HEDGE FUND ASPECT TO  
13          THE STARTUP COMPANY, THE VENTURE CAPITAL ASPECT AND  
14          HAVE INFORMATION FLOW BOTH WAYS, BOY, YOU ARE SO  
15          MUCH BETTER.

16          THAT'S WHAT HE WAS SELLING. MR. LIN WAS  
17          SELLING HIS ADVICE. AND IN ORDER FOR HIM TO OBTAIN  
18          GREATER CREDIBILITY, GREATER AUDIENCE, HE WAS PROUD  
19          TO ANNOUNCE HIMSELF AS THE MANAGING PARTNER OF  
20          ASENQUA VENTURES.

21          AND JUST ONE MORE EXAMPLE OF WHAT WAS  
22          REALLY GOING THROUGH BOB LIN'S MIND IN TERMS OF WHY  
23          HE INVESTED IN THE ASENQUA BETA FUND TO BEGIN WITH  
24          AND WHAT WAS IMPORTANT TO HIM, WHAT WAS IT THAT  
25          NATURALLY HAD A TENDENCY TO INFLUENCE HIS DECISION

1 MAKING IN MAKING THE DECISION TO INVEST.

2 MR. LIN WAS ASKED ABOUT HIS FAMILIARITY  
3 WITH THE MASTER FUND/FEEDER FUND STRUCTURE THAT IS  
4 CONTAINED IN THE ASENQUA BETA FUND PPM AS WELL AS  
5 THE FIRESIDE FUND PPM, THE MASTER FUND/FEEDER FUND  
6 STRUCTURE.

7 MR. LIN ADMITTED ON THE STAND THAT HE  
8 ACTUALLY WAS NOT FAMILIAR WITH THAT AT ALL; AND  
9 THAT WHEN HE WAS ASKED TO LOOK AT THE PPM ABOUT  
10 THAT SECTION THAT DEALS WITH THE MASTER FUND,  
11 FEEDER FUND STRUCTURE, HE SAID HE DID NOT RECALL  
12 EVER SEEING THAT.

13 AND WHEN ASKED WHY, HE DID NOT PAY ANY  
14 ATTENTION TO THAT. HE SAID, HE TESTIFIED, HE FELT  
15 HONORED TO BE ASKED TO JOIN THE ASENQUA FAMILY TO  
16 INVEST HIS MONEY AND TO HAVE THAT CONNECTION AND  
17 THAT HE WAS SO ANXIOUS, THAT WAS THE WORD HE USED,  
18 ANXIOUS TO GET IN ON THE INVESTMENT THAT IT WASN'T  
19 IMPORTANT TO HIM.

20 THAT IN A NUT SHELL IS WHAT THIS CASE IS  
21 ABOUT. IT IS NOT ABOUT THE CASTILLO, LYN, COHEN &  
22 VIJAY CPA FIRM THAT DID NOT EXIST. IT IS NOT ABOUT  
23 THE GLOBEOP FUND ADMINISTRATOR. IT'S NOT ABOUT ANY  
24 OF THOSE THINGS THAT ARE CHARGED IN THE  
25 GOVERNMENT'S INDICTMENT, BUT RATHER BOB LIN WANTED



1 DESPERATELY TO GET IN ON THE INSIDE BECAUSE THAT  
2 WOULD ALLOW HIM TO HAVE MORE ACCESS TO PEOPLE LIKE  
3 THIS GENTLEMAN, LONG LIU, WHO WAS THE HEAD OF  
4 UTSTARCOM.

5 WHICH BY THE WAY WAS THE SAME REASON  
6 MR. VERDIELL TESTIFIED TO AS TO ONE OF THE FACTORS  
7 THAT INFLUENCED HIS DECISION TO INVEST IN FIRESIDE.  
8 HE SPECIFICALLY MENTIONED THIS GENTLEMAN. HE  
9 DIDN'T KNOW HIS FULL NAME BUT HE DID SAY HE WAS THE  
10 PRINCIPAL OR THE OWNER OF THIS COMPANY, UTSTARCOM.

11 SO IT IS THE INSIDER CONNECTION THAT WAS  
12 IMPORTANT TO BOB LIN.

13 NOW, BOB LIN, LET'S NOT -- LET'S NOT GO  
14 LIGHT ON THIS. BOB LIN WAS AN INSIDER. NOT ONLY  
15 DID HE PASS HIMSELF OFF AS THE MANAGING PARTNER,  
16 NOT JUST A PARTNER BUT THE MANAGING PARTNER OF  
17 ASENQUA VENTURES, AS YOU HEARD IN HIS TESTIMONY, HE  
18 DID THAT IN SEVERAL DIFFERENT PLACES.

19 HE ALSO TRAVELLED WITH THE ASENQUA AND  
20 FIRESIDE FUND MANAGER, STEVEN BOND. THE GOVERNMENT  
21 IN ITS CLOSING ARGUED THAT MR. HU WAS A ONE-PERSON  
22 SHOW. MR. BOND WAS THE PERSON WHO IMPRESSED  
23 MR. VERDIELL AND WE WILL GET TO THAT IN A SECOND.

24 AS YOU HAVE SEEN IN THE POWERPOINT  
25 PRESENTATIONS, THERE WERE A LOT OF ASENQUA RELATED

1 ENTITY IT IS ALL OVER THE WORLD AND THERE WERE A  
2 LOT OF PEOPLE INVOLVED. IT WAS NOT THE EVIDENCE  
3 SHOWS THAT IT WAS NOT A ONE-PERSON SHOW.

4 NOW, BOB LIN TRAVELLED THROUGHOUT ASIA  
5 WITH MR. BOND AND ON OCCASION WITH MR. HU. USE  
6 YOUR COMMON SENSE. IF YOU ARE JUST AN ARM'S LENGTH  
7 INVESTOR, DO YOU GO TRAVELLING IN THE FAR EAST OR  
8 IN EUROPE OR AFRICA OR IN ANTARCTICA TO PROMOTE AND  
9 PITCH THE VIRTUES OF THE VARIOUS ASENQUA ENTITIES  
10 OR OTHER ASENQUA PRODUCTS OR SERVICES, IF YOU WILL,  
11 THAT'S COVERED BY THE ASENQUA FAMILY TREE.

12 THE COMMON SENSE SHOULD TELL YOU THAT NO,  
13 YOU DON'T DO THAT UNLESS YOU ARE TRULY PART OF THE  
14 TEAM. AND BOB LIN BY THE WAY WAS LISTED AS ONE OF  
15 THE TEAM MEMBERS OF THE ASENQUA VENTURE MANAGEMENT  
16 GROUP. BOB LIN GOT NOT ONLY REIMBURSED FOR HIS  
17 TRAVEL EXPENSES, WHICH OF COURSE IS REASONABLE AND  
18 EXPECTED, THE EVIDENCE WILL SHOW THAT ONE OF THE  
19 CHECKS AND IT'S ALREADY IN EVIDENCE SO YOU CAN SEE  
20 IT AS PART OF, I THINK IT WAS THE LAST CHECK OF  
21 DEFENDANT'S EXHIBIT 1, IT'S A SERIES OF CHECKS OF  
22 REIMBURSEMENT CHECK THAT IS BOB LIN RECEIVED FROM  
23 THE ASENQUA PEOPLE, ONE OF THEM WAS FOR A \$3,000  
24 MEDICAL COPAYMENT.

25 AGAIN, IF YOU ARE JUST DOING A FRIEND A

1 FAVOR AND YOU DRIVE OUT TO SAN FRANCISCO FOR YOUR  
2 FRIEND, HE OR SHE MIGHT REIMBURSE YOU FOR YOUR GAS  
3 AND MAYBE BUY YOU A NICE CUP OF COFFEE TO SAY  
4 THANKS. THAT FRIEND WILL NOT PAY \$3,000 OF YOUR  
5 HEALTH CARE COPAYMENT. BOB LIN WAS PART OF THE  
6 ASENQUA FAMILY. HE KNEW EXACTLY WHAT WAS GOING ON.

7 AND NOW, HOW DO WE KNOW THAT? IF WE LOOK  
8 AT -- THE VERY NATURAL QUESTION WOULD BE, WHAT  
9 ABOUT THE PERFORMANCE OR RETURN RATE ON THESE  
10 THINGS IN THE GOVERNMENT HAS ARGUED THESE ARE  
11 FALSE, FALSE, FALSE. BECAUSE IF YOU REALLY LISTEN  
12 TO THE GOVERNMENT'S ARGUMENT, WHAT THE GOVERNMENT  
13 IS SAYING IS THAT BECAUSE -- THERE ARE TWO REASONS  
14 FOR THAT. THE CASTILLO AUDITED REPORT BECAUSE THE  
15 CASTILLO CPA FIRM DID NOT EXIST, THEREFORE THE  
16 UNDERLYING NUMBERS IN THIS REPORT WERE FALSE OR  
17 FRAUDULENT.

18 THERE IS ACTUALLY NO EVIDENCE OF THAT  
19 WHATSOEVER. AND WE WILL GET TO THE GOVERNMENT'S  
20 CHART OF CHASING WHERE THE MONEY WENT IN A SECOND.  
21 BUT I WANT YOU TO REMEMBER THAT THERE ACTUALLY IS  
22 NO EVIDENCE WHATSOEVER THAT THE NUMBERS ARE FALSE.

23 HOWEVER, HERE'S WHAT WE DO KNOW.  
24 EXHIBIT -- DEFENDANT'S EXHIBIT 504 WHICH IS IN  
25 EVIDENCE WHICH IS THE SEPTEMBER 2004 POWERPOINT

1        THAT BOB LIN WAS GIVEN BEFORE HE MADE HIS DECISION  
2        TO INVEST AND HE SAID HEY, THIS HAD A NATURAL  
3        TENDENCY TO INFLUENCE MY DECISION.

4                AND IN FACT THE GOVERNMENT IN ITS CLOSING  
5        REFERENCED THIS. THE ASENQUA CAPITAL MANAGEMENT  
6        RETURN RATE SHOWING A REALLY GOOD PERFORMANCE  
7        STARTING IN THE YEAR 2000 -- THAT WAS A LOW YEAR  
8        BUT IT JUMPED IN 2001 AND HAD SPECTACULAR RETURNS  
9        IN 2002 AND 2003.

10               THE GOVERNMENT'S ARGUMENT IS WELL, IF  
11        THESE -- BECAUSE THESE NUMBERS WERE ASSOCIATED WITH  
12        THE CASTILLO AUDIT REPORT, THEY MUST BE FALSE.  
13        THEY MUST BE. AGAIN, THERE'S NO EVIDENCE THAT THE  
14        NUMBERS IN THE CASTILLO REPORT IS FALSE.

15               SO THE GOVERNMENT SAYS, WELL, THIS IS  
16        FALSE; HOWEVER, IN AUGUST OF 2006 AFTER BOB LIN  
17        JOINED THE ASENQUA FAMILY ABOUT THE TIME THAT HE  
18        WAS BECOMING MORE INVOLVED, HE ATTENDED MEETINGS --  
19        YOU WILL REMEMBER HIS TESTIMONY, HE ATTENDED  
20        ASENQUA VENTURES INVESTMENT STRATEGY MEETINGS, HE  
21        CAME UP WITH IDEAS, HE MADE RECOMMENDATIONS.

22               BOB LIN TESTIFIED THAT YES, HE GAVE HIS  
23        APPROVAL TO BE INCLUDED IN THE ASENQUA CAPITAL  
24        GROUP'S POWERPOINT WHICH IS EXHIBIT 505 WHICH IS  
25        DATED AUGUST 2006.

1           NOW, THIS IS A DOCUMENT THAT BOB LIN  
2           HIMSELF TESTIFIED TO THAT YES, I KNOWINGLY AND  
3           VOLUNTARILY ASSOCIATED MYSELF TO THIS POWERPOINT  
4           PRESENTATION BECAUSE AMONG OTHER THINGS, BOB LIN IS  
5           LISTED AS PART OF THE ASENQUA VENTURES MANAGEMENT  
6           TEAM ON PAGE TWO.

7           AND ACTUALLY, I WILL TAKE A MOMENT TO  
8           SHOW YOU, THIS IS THE FAMILY TREE I'M TALKING ABOUT  
9           LINKING THE VARIOUS ASENQUA ENTITIES TOGETHER  
10          INCLUDING, AS YOU WILL SEE IN THE MIDDLE ON THE  
11          BOTTOM THERE, ASENQUA VENTURES MANAGEMENT SEAN  
12          VERAH, BOB LIN, FRANK FRANZILLA THEY ARE THE  
13          ASENQUA MANAGEMENT TEAM.

14          AND AGAIN, BOB LIN SAID, OF COURSE, I  
15          APPROVE OF MY NAME APPEARING ON THIS POWERPOINT.

16          NOW, WHAT'S INTERESTING IS THAT IN THIS  
17          SAME POWERPOINT A COUPLE PAGES LATER ON PAGE EIGHT,  
18          YOU SEE THE SAME PERFORMANCE NUMBERS THAT WERE  
19          CONTAINED IN THE 2004, THE SEPTEMBER 2004  
20          POWERPOINT PRESENTATION THAT BOB LIN SAID HE HAD  
21          SEEN AND HE RELIED ON IT. THE SAME NUMBERS FROM  
22          2000 TO 2003 THE NUMBERS ARE IDENTICAL. NOW OF  
23          COURSE, UNDERSTANDABLY 2004 AND 2005 HAD NOT  
24          HAPPENED YET OR AT LEAST THE NUMBERS WEREN'T IN YET  
25          AT THE TIME MR. LIN MADE HIS DECISION TO INVEST.

1 BUT MR. LIN HAD ABSOLUTELY NO PROBLEM  
2 PUTTING HIS NAME ON A POWERPOINT PRESENTATION WHERE  
3 HE WAS NAMED AS A TEAM MEMBER OF THE ASENQUA  
4 VENTURES MANAGEMENT TEAM, HAD NO PROBLEM, AND THIS  
5 WAS GOING TO BE SEEN BY PERSPECTIVE INVESTORS JUST  
6 LIKE MR. LIN HAD BEEN A COUPLE YEARS EARLIER.

7 MR. LIN HAD NO PROBLEM SAYING, THE  
8 FIRESIDE FUND IN 2001, AND FIRESIDE OF COURSE WAS  
9 THE SUCCESSOR, WHO WAS ORIGINALLY THE ASENQUA BETA  
10 FUND AND IT TURNED INTO FIRESIDE. SO THESE ARE THE  
11 ASENQUA BETA FUND 2001, 40 PERCENT, 2002, 30 PLUS  
12 PERCENT, 2003, 34 PLUS PERCENT.

13 BOB LIN HAD NO PROBLEM AFTER HE HAD BEEN  
14 INVOLVED WITH ASENQUA FOR OVER A YEAR, THAT HE  
15 WOULD VALIDATE THESE NUMBERS.

16 NOW, IT'S CERTAINLY COMMON SENSE TO ASK,  
17 WELL, HOW DO WE KNOW THAT HE ACTUALLY DID THE DUE  
18 DILIGENCE AND INSPECTED THE BOOKS HIMSELF SO THAT  
19 HE WAS REALLY VOUCHING FOR SOMETHING THAT HE WAS  
20 SURE OF?

21 THE BETTER QUESTION IS, LET'S LOOK AT WHO  
22 BOB LIN IS. HE WAS NOT A 15-YEAR OLD HIGH SCHOOL  
23 STUDENT WHO WAS JUST GLAD TO SEE HIS NAME  
24 ASSOCIATED WITH SOMETHING THAT WAS KIND OF COOL AT  
25 LEAST WITHIN HIS FRAME OF REFERENCE. BOB LIN IS A

1 VENTURE CAPITAL GURU. HE GAVE LECTURES THROUGHOUT  
2 THE WORLD WITH THE NATIONAL UNIVERSITY OF  
3 SINGAPORE, THROUGH THE MONTE JADE NETWORKING GROUP  
4 OF SEVERAL THOUSAND HIGH-TECH BUSINESS  
5 PROFESSIONALS.

6 BOB LIN WOULD NOT PUT HIS NAME ON  
7 SOMETHING WITHOUT HIM BEING VERY CONFIDENT THAT  
8 HEY, THIS IS NOT GOING TO TARNISH MY NAME. AGAIN,  
9 THERE ACTUALLY IS NO EVIDENCE THAT THOSE NUMBERS  
10 WERE FALSE.

11 AND JUST TO TIE IT ALL TOGETHER, THE --  
12 YOU SEE THE NUMBERS FOR THE 2002, 2003, 30-PLUS  
13 PERCENT, THESE ARE ACTUALLY THE BOTTOM LINE FIGURES  
14 IN THE INFAMOUS CASTILLO AUDITED REPORT.

15 IF YOU LOOK AT PAGE TWO OF THE REPORT,  
16 THIS IS THE CASTILLO REPORT, YOU CAN SEE THE COLUMN  
17 TO THE RIGHT OF YOUR VIEW, ON THE RIGHT EDGE IS  
18 2003, RETURN PERFORMANCE. AND 2004 IT'S THE COLUMN  
19 TOWARD THE MIDDLE.

20 AND YOU WILL SEE THAT THESE NUMBERS ARE  
21 VERY SIMILAR, NOT IDENTICAL, BUT SIMILAR TO THE  
22 NUMBERS THAT YOU SEE IN THE FIRESIDE LS FUND  
23 PERFORMANCE IN EXHIBIT 505, WHICH BOB LIN HAPPILY  
24 PUT HIS NAME ON.

25 I FEEL LIKE IT'S ONE OF THOSE

1        COMMERCIALS, BUT WAIT, THERE'S MORE.    HOW DO WE --  
2        WHAT EVIDENCE IS THERE THAT THE, THAT THERE  
3        ACTUALLY WERE TRADING ACTIVITIES, STOCKS BEING  
4        PURCHASED, THAT IT WAS NOT AS THE GOVERNMENT WANTS  
5        YOU TO KNOW, MONEY THAT CAME IN OR GOT DISSIPATED  
6        OR FOR WHATEVER PERSONAL REASONS OR WHATEVER.

7                MR. VERDIELL TESTIFIED, AND MR. VERDIELL  
8        AGAIN, IS A VERY SAVVY SUCCESSFUL BUSINESS PERSON,  
9        HIS STARTUP COMPANY, LIGHT LOGIC WAS ACQUIRED BY  
10        INTEL AND EVEN A NON TECH PERSON LIKE ME HAS HEARD  
11        OF INTEL.    IT WAS ACQUIRED BY INTEL FOR  
12        \$400 MILLION.    HE'S VERY SUCCESSFUL, HE'S VERY  
13        SAVVY, HE KNOWS WHAT HE'S DOING.

14                MR. VERDIELL TESTIFIED THAT SOME TIME  
15        LATE IN THE 2007 HE, BECAUSE HE WAS HAVING SOME  
16        CONVERSATION WITH BOB LIN, HE BECAME CONCERNED  
17        ABOUT THAT VERY QUESTION, WHETHER OR NOT THERE WAS  
18        REALLY TRADING ACTIVITIES THERE WAS REALLY AN  
19        INVESTMENT FUND, THERE WAS ANY OF THESE THINGS.  
20        AND REMEMBER, BOB LIN HAD ASKED TO WITHDRAW HIS  
21        MONEY IN NOVEMBER OF 2007.

22                SO NOW, WHAT DID MR. VERDIELL DO?    HE  
23        VERY REASONABLY, HE ASKED FOR A SIT DOWN.    HE ASKED  
24        FOR KIND OF A SHOW ME THE MONEY MEETING WITH  
25        MR. BOND, THE PLAN MANAGER, AND MR. HU.    AND THAT



1 TOOK PLACE IN THE DECEMBER OF 2007.

2 NOW, MR. VERDIELL TESTIFIED, NOT ANYBODY  
3 ELSE, MR. VERDIELL TESTIFIED THAT HE WAS SKEPTICAL,  
4 HE WAS CONCERNED WHEN HE ATTENDED THIS MEETING. HE  
5 SAT DOWN WITH MR. BOND AND MR. HU ON THIS KIND OF  
6 SHOW ME THE MONEY MEETING.

7 NOW, WHAT MR. VERDIELL TESTIFIED TO WAS  
8 NOT THAT HE WAS JUST SIMPLY GIVEN SOME MORE  
9 LATITUDE OH, YES YOUR INVESTMENT WAS GOING ON, IT'S  
10 DOING GREAT. THAT MIGHT HAVE GONE ON, THAT COULD  
11 HAVE BEEN SAID.

12 BUT WHAT MR. VERDIELL TESTIFIED TO WAS  
13 THAT HE WAS ACTUALLY SHOWN THE ACTUAL TRADES BY THE  
14 FIRESIDE FUND. HE WAS TALKING ABOUT THERE WERE  
15 ABOUT TEN PAIRS THAT LONG, SHORT STRATEGY WHERE THE  
16 FUND WOULD INVEST IN TWO COMPANIES IN THE SAME  
17 INDUSTRY HOPING ONE OF THEM WOULD HOLD LONG AND ONE  
18 OF THEM WOULD SELL SHORT.

19 HE SAID HE SAW ABOUT TEN PAIRS OF THIS  
20 KIND OF TRADING AND HE CAME AWAY WITH IN HIS WORDS  
21 SATISFIED. AND HE WAS SUSPICIOUS OR CONCERNED  
22 GOING IN. HE SAID COMING OUT I WAS SATISFIED  
23 BECAUSE MR. BOND THE FUND MANAGER AND MR. HU HAD  
24 PASSED WITH FLYING COLORS. THOSE WERE HIS WORDS,  
25 PASSED WITH FLYING COLORS.

1           COMMON SENSE WOULD TELL YOU THAT FOR A  
2           PERSON AS SAVVY AND AS EXPERIENCED AND AS  
3           SOPHISTICATED AS MR. VERDIELL, A POWERPOINT  
4           PRESENTATION WITH NOTHING BEHIND IT WOULD NOT HAVE  
5           SATISFIED HIM AT THAT POINT. HE WANTED THE ACTUAL  
6           NITTY-GRITTY. HE WANTED, AS BOB LIN SAID, YOU GOT  
7           TO LOOK AT THE BOOKS. WHICH MR. VERDIELL, AFTER  
8           THE SHOW ME THE MONEY MEETING, CAME AWAY WITH BEING  
9           SATISFIED AND SAYING THAT THEY PASSED WITH FLYING  
10          COLORS.

11           OF COURSE, HE SUBSEQUENTLY BECAME  
12          DISSATISFIED. THE POINT IS, THOUGH, THAT WHAT IS  
13          IN EVIDENCE IS THE FACT THAT MR. VERDIELL WAS SHOWN  
14          THE ACTUAL TRADING ACTIVITIES OF THE FIRESIDE FUND  
15          AND HE CAME AWAY BEING TOTALLY SATISFIED.

16           NOW, THE GOVERNMENT SPENT A LOT OF TIME  
17          TRACING THE MONEY, SHOWING THAT SAY, THE HUNDRED  
18          THOUSAND DOLLARS THAT MR. LIN HAD FIRST PUT INTO  
19          THE ASENQUA BETA FUND WHO ACTUALLY, THAT HE WIRED  
20          TO AN ACCOUNT AT MR. HU'S REQUEST, HAD BEEN USED  
21          FOR NONTRADING PURPOSES.

22           AND THE GOVERNMENT GOES, SEE, THAT SHOWS  
23          THAT THERE WAS NO REAL INVESTMENT FUND, THAT HE WAS  
24          ALL A FRAUD. EXCEPT THE DOCUMENT, THE PPM FOR BOTH  
25          THE ASENQUA BETA FUND AND THE FIRESIDE FUND, THEY

1       ACTUALLY DO NOT SAY THAT IF YOU GIVE ME A THOUSAND  
2       DOLLARS I, THE FUND MANAGER, WILL ACTUALLY TAKE  
3       THAT MONEY AND BUY FIVE SHARES OF STOCK IN THIS  
4       COMPANY AND TEN SHARES OF STOCK IN THAT COMPANY AND  
5       15 SHARES IN THAT COMPANY. THAT'S WHAT YOU WOULD  
6       DO WITH A PRIVATE BROKER. THAT'S NOT WHAT A HEDGE  
7       FUND IS.

8               THE DOCUMENTS ARE CLEAR. WHAT THESE TWO  
9       HEDGE FUNDS WERE, WERE LIMITED PARTNERSHIPS WHERE  
10      INVESTORS WOULD PUT IN A CERTAIN AMOUNT OF MONEY,  
11      INVESTORS LIKE MR. VERDIELL, MR. LIN, AND OTHERS  
12      INCLUDING THE PERSON THAT THEY BOTH RESPECT SO  
13      MUCH, MR. HONG LU, THEY PUT IN THEIR MONEY IN THIS  
14      FUND AND IT FORMS A POOL OF MONEY AND THAT POOL OF  
15      MONEY ULTIMATELY WILL GET ACTUALLY IN THIS CASE,  
16      NOT EVEN NECESSARILY INVESTED AND TRACED AND WHAT  
17      NOT.

18             OF COURSE YOU HAVE SEEN IN THE DOCUMENT,  
19      AND I WILL SHOW YOU IN A SECOND THAT THE ASENQUA  
20      BETA FUND FOR EXAMPLE AND THE FIRESIDE LS FUND,  
21      THEY ARE NOT MEANT TO BE AND THE DOCUMENTS DO NOT  
22      SAY THAT THESE FUNDS WOULD BE THE FUNDS THAT WOULD  
23      ACTUALLY BE CONDUCTING TRADING ACTIVITIES.

24             THAT NO, THE ASENQUA BETA FUND AND THE  
25      FIRESIDE LS FUND WOULD EACH BE PART OF A SMALLER

1 PART OF A MASTER FUND.

2 AND MR. LIN ADMITTED ON THE STAND THAT  
3 EVEN WITH WHAT HE CLAIMS TO BE LIMITED  
4 UNDERSTANDING, THE MASTER FUND WOULD BE BIGGER THAN  
5 THE FEEDER FUND. SO THAT -- THERE'S ABSOLUTELY NO  
6 EVIDENCE WHATSOEVER THAT THERE'S NOT A MASTER FUND,  
7 THAT IT WAS NOT -- WHERE TRADING WAS TAKING PLACE.

8 THE ONLY THING THE GOVERNMENT'S EVIDENCE  
9 SHOWS IS THAT THE MONEY THAT WAS WIRED TO MR. HU  
10 GOT SPENT FOR PURPOSES OTHER THAN DIRECTLY MAKE  
11 BEING THE INVESTMENT.

12 AND I SUBMIT TO YOU THAT THE WAY HEDGE  
13 FUND WAS SET UP IN THIS CASE, THE LIMITED  
14 PARTNERSHIP CONTEXT, THAT IT WAS NOT ABOUT IF YOU  
15 GIVE ME A THOUSAND DOLLARS, I PUT THAT IN A SHOE  
16 BOX, I RUN TO APPLE TO BUY SEVEN SHARES, TO GOOGLE  
17 AND BUY SEVEN SHARES, TO PACBELL AND BUY FIVE  
18 SHARES. IT DOESN'T WORK THAT WAY. THE MONEY GETS  
19 PUT INTO A POOL.

20 AND THE DOCUMENTS ARE CLEAR THAT THE FUND  
21 MEANING THE ASENQUA BETA FUND AND THE FIRESIDE FUND  
22 WOULD INVEST SUBSTANTIALLY MOST OF ITS ASSETS INTO  
23 THE MASTER FUND.

24 NOW THERE'S ABSOLUTELY NO EVIDENCE OF  
25 WHAT PART, WHAT PERCENTAGE OF THE ASENQUA BETA FUND

1 BOB LIN'S MONEY OR MARK VERDIELL'S MONEY MADE UP.  
2 BECAUSE ONE THING WE DO THINK, THERE'S A LOT OF  
3 EVIDENCE ABOUT THE FACT THAT THERE WERE A LOT OF  
4 OTHER HIGH POWERED INVESTORS, A LOT OF HEAVY  
5 HITTERS. PEOPLE LIKE MR. VERDIELL WHO WOULD THINK  
6 OF NOTHING BUT TO TRANSFER \$2 MILLION ON ONE DAY  
7 JUST LIKE THAT.

8 SO WHAT WE DO KNOW BECAUSE MS. DOONG  
9 TESTIFIED TO THIS, IS THAT WE HAVE EVIDENCE THAT  
10 ACCORDING TO MR. HU, THAT THERE WAS A FUND OF  
11 \$200 MILLION OUT THERE.

12 NOW THE GOVERNMENT HAS NOT DISPROVED THAT  
13 IN ANY WAY. THE GOVERNMENT CERTAINLY WANTS YOU TO  
14 DRAW INFERENCES, WHICH THE GOVERNMENT IS ALLOWED TO  
15 DO. AND THE GOVERNMENT SAID, WELL, WHY MAKE UP THE  
16 CPA FIRM IF THERE WAS REALLY A FUND?

17 AGAIN, THE CASTILLO CPA FIRM IS REALLY A  
18 RED HERRING IN THAT THERE'S NO PROOF THAT THE  
19 NUMBERS THEMSELVES AND THAT'S WHAT'S IMPORTANT, THE  
20 NUMBERS THEMSELVES ARE FALSE.

21 AGAIN, WE SEE THAT MR. VERDIELL SAW THE  
22 ACTUAL TRADING AND WAS SATISFIED. BOB LIN HAD NO  
23 PROBLEM PUTTING HIS NAME ON THOSE SAME NUMBERS.  
24 BUT IF THE -- GOING BACK TO MATERIALITY, IF THE  
25 FACT THAT THIS WAS NOT A TRUE CPA FIRM WAS SO

1       IMPORTANT TO MR. LIN OR MR. VERDIELL, AGAIN, THEY  
2       ARE NOT 15-YEAR OLD TEENAGERS, THEY ARE  
3       SOPHISTICATED, SAVVY SUCCESSFUL BUSINESS PEOPLE.

4               IF THAT WAS IMPORTANT TO THEM, ALL THEY  
5       HAD TO DO WAS TO GO ON THE WEBSITE. YOU HEARD THE  
6       TESTIMONY FROM THE GENTLEMAN FROM THE ACCOUNTANCY  
7       BOARD OF THE STATE OF CALIFORNIA, THAT ANYBODY WITH  
8       INTERNET ACCESS, ABOUT SEVEN CLICKS, I BELIEVE, 5,  
9       7 CLICKS AND TYPING IN THE WORDS CASTILLO, LYN,  
10      COHEN & VIJAY OR COMBINATIONS THERE OF, COULD HAVE  
11      DISCOVERED THERE WAS NO SUCH CERTIFIED ENTITY IN  
12      THE STATE OF CALIFORNIA.

13             THE REASON WHY THAT WAS NOT DONE BY THESE  
14      TWO VERY SAVVY PROFESSIONAL BUSINESS PEOPLE IS THAT  
15      BECAUSE IT JUST WASN'T THAT IMPORTANT. WHAT WAS  
16      IMPORTANT TO THEM WAS THE FACT THAT IT WAS A HEDGE  
17      FUND THAT WAS ASSOCIATED WITH A LOT OF PROMINENT  
18      BUSINESS PEOPLE, A LOT OF NAME RECOGNITION. THEY  
19      WANT TO JOIN THE BAND WAGON.

20             AND IN FACT, MR. LIN WHEN HE WAS  
21      TESTIFYING ABOUT HIS PHILOSOPHY OF DUE DILIGENCE  
22      ABOUT INVESTING IN HIS START UP, HE WAS ASKED WELL,  
23      DO YOU CHECK EVERYTHING THAT WAS REPRESENTED TO YOU  
24      BEFORE YOU MAKE A DECISION TO INVEST IN A START UP.  
25      HE SAID, WELL, YEAH YOU TRY TO, BUT ULTIMATELY

1       THERE ARE REALITIES AT WORK HERE.

2               HE GAVE A PERFECT EXAMPLE. HE SAID IF  
3       THERE'S A PERFECT COMPANY THAT I CONSIDER TO BE  
4       REALLY HOT, REALLY HAVE THE POTENTIAL OF BEING  
5       SPECTACULAR AND THERE ARE A LOT OF COMPETING PEOPLE  
6       WHO WANT TO FUND THAT PARTICULAR START UP, YOU GOT  
7       TO GET IN THERE, YOU GOT TO JUST OVER LOOK CERTAIN  
8       THINGS, YOU JUST WANT TO GET IN AND BEAT THE  
9       COMPETITION BECAUSE YOU COULD BE LEFT OUT IN THE  
10      COLD IN TERMS OF NOT BEING ABLE TO INVEST IN THE  
11      NEXT GOOGLE, THE NEXT FACEBOOK.

12              AND THAT'S EXACTLY WHAT HAPPENED HERE.  
13      MR. LIN WAS AFRAID HE WAS BE ACED OUT. AND THERE'S  
14      PROOF OF THAT BECAUSE THE LAST INVESTMENT THAT HE  
15      MADE, THE \$250,000 THAT WENT INTO THE FIRESIDE  
16      FUND, I BELIEVE IT HAPPENED IN THE MIDDLE OF 2007,  
17      THAT WAS NOT DONE FOR ANY REASON OTHER THAN MR. LIN  
18      SAID THAT WELL, I WAS THE -- I WAS TOLD BY MR. HU  
19      THAT I WAS THE LOWEST, THE SMALLEST INVESTOR IN OUR  
20      LITTLE GROUP AND I DID NOT LIKE THAT. I DID NOT  
21      WANT TO DRAG DOWN EVERYBODY ELSE. I WANT TO BE ON  
22      A PAR WITH THE BIG BOYS AND GIRLS.

23              THAT IS AS GOOD OF A STATEMENT OF WHAT  
24      WAS IMPORTANT TO MR. LIN, WHAT HAD THE NATURAL  
25      TENDENCY TO INFLUENCE HIS DECISION MAKING BECAUSE

1 HE SAID THAT WAS WHY I MADE THIS FINAL \$250,000  
2 INVESTMENT SO THAT I COULD BRING MY INVESTMENT UP  
3 TO A MILLION DOLLARS AND I COULD CLAIM THAT I COULD  
4 AT LEAST BE ON THE SAME LEVEL AS SOME OF THE  
5 INVESTORS AND NO LONGER THE SMALLEST INVESTOR IN  
6 THIS PROMINENT GROUP OF PEOPLE.

7 THE GOVERNMENT ARGUES THAT THAT'S  
8 ACTUALLY ONE OF THE FALSE REPRESENTATIONS THAT BY  
9 TELLING MR. LIN THAT HE HAD TO INVEST AT LEAST A  
10 MILLION DOLLARS, THAT WAS A FALSE STATEMENT.

11 THIS IS THE FIRESIDE PPM AND THE ASENQUA  
12 PPM I WILL SHOW YOU AS WELL BUT IT'S IDENTICAL.  
13 YOU SEE THAT IN THE SUBSCRIPTION SECTION OF, I  
14 BELIEVE THIS IS PAGE EIGHT, IT SAYS THAT INTEREST  
15 IN THE FUND WILL BE SOLD AT A MINIMUM SUBSCRIPTION  
16 PER INVESTOR AT \$1 MILLION, THEN IT FOLLOWS, THE  
17 GENERAL PARTNER MAY IN ITS DISCRETION ADJUST THIS  
18 MINIMUM.

19 HOW IN THE WORLD IS THAT A FALSE  
20 REPRESENTATION THAT EVERYBODY HAS TO, YOU MUST,  
21 EVERYBODY HAD TO HAVE INVESTED A MILLION DOLLARS?  
22 BECAUSE IT SAYS SO.

23 GENERAL PARTNER MAY, IN ITS DISCRETION,  
24 ADJUST THE MINIMUM. THAT'S WHAT HAPPENED TO  
25 MR. LIN IN THE FIRST PLACE. HE TESTIFIED THAT WHEN



1 HE AND MR. HU WERE TALKING MR. HU TOLD HIM HEY BOB  
2 YOU'RE THE EXACTLY THE KIND OF GUY WE WANT. YOU  
3 HAVE THESE BOOKS OUT ON HOW TO BE HAPPY AND HOW TO  
4 BE A SUCCESSFUL BUSINESS PERSON. YOU ARE WELL  
5 RESPECTED IN TAIWAN AND IN THE CHINESE-AMERICAN  
6 COMMUNICATE. COME ON IN, I, AS THE GENERAL  
7 PARTNER, WILL USE MY DISCRETION SO THAT YOU DON'T  
8 HAVE TO INVEST A MILLION DOLLARS.

9 SO IT IS SIMPLY NOT TRUE THAT THIS  
10 STATEMENT THAT EVERYBODY HAS TO INVEST A MILLION  
11 DOLLARS, THAT IS NOT WHAT'S REQUIRED BY THE  
12 DOCUMENT AND THAT'S NOT WHAT HAPPENED.

13 AND MR. LIN WAS SELF CONSCIOUS BECAUSE HE  
14 WAS CONCERNED THAT HE DID NOT WANT TO BE THE  
15 LOWEST, THE SMALLEST INVESTOR. WHICH IS  
16 UNDERSTANDABLE, BUT THAT IS NOT FRAUD.

17 NOW, ANOTHER ASPECT OF WHY THESE  
18 INVESTORS DID NOT GET THEIR MONEY BACK, THE  
19 STARTING POINT IS THAT THE INVESTORS EACH  
20 TESTIFIED, MR. LIN, MR. VERDIELL, WELL OF COURSE  
21 WHEN I SUBMIT MY WRITTEN REQUEST FOR REDEMPTION TO  
22 WITHDRAW MY MONEY, MY INVESTMENT, WITHIN 12 MONTHS  
23 I SHOULD GET EVERYTHING BACK.

24 AGAIN, THAT'S SIMPLY NOT WHAT THE PPM  
25 SAYS. WHAT THIS WILL SHOW IS THAT UNDERSTANDABLY

1 THOSE TWO GENTLEMAN SAW WHAT THEY WANTED TO SEE.  
2 THEY HAD A DEFINITE IDEA THAT THEY WANTED TO BE  
3 AFFILIATED WITH THIS SUCCESSFUL FUND AND THEY WANT  
4 TO JOIN THE PARTY, THEY DON'T WANT TO BE LEFT OUT.  
5 THEY DON'T WANT TO BE ON THE UNINVITED LIST.

6 THIS IS PAGE 17 OF THE PRIVATE PLACEMENT  
7 MEMORANDUM OF FIRESIDE. AND THE ASENQUA PPM HAS  
8 THE IDENTICAL LANGUAGE. AGAIN, YOU HEARD THE  
9 TESTIMONY THAT THE REDEMPTION COULD BE SUSPENDED IN  
10 THE DISCRETION, IN THE OPINION OF THE INVESTMENT  
11 MANAGER UNDER CERTAIN CONDITIONS.

12 AND WE HEARD TESTIMONY THAT AROUND THIS  
13 PERIOD OF TIME MR. LIN HIMSELF SAID, I THINK HIS  
14 WORDS WERE, THAT HE SPECIFICALLY CITED THE  
15 COLLAPSE. THAT THE PRIME RATE MELT DOWN WITH THE  
16 HOUSING MARKET AFFECTING THE GLOBAL ECONOMY.

17 SO THERE WAS TESTIMONY THAT MR. LIN KNEW  
18 THAT THERE WERE VERY, VERY TRYING UNUSUAL  
19 CATASTROPHIC ECONOMIC CONDITIONS THAT COULD VERY  
20 WELL HAVE MADE LIQUIDATED THE INVESTMENT AT THAT  
21 POINT TO BE IMPRACTICAL OR PREJUDICIAL. AGAIN,  
22 THERE IS NO EVIDENCE TO THE CONTRARY.

23 HOWEVER, WE DO HAVE EVIDENCE FROM  
24 MR. VERDIELL HIMSELF IN AN E-MAIL HE SENT TO BOB  
25 LIN WHICH VALIDATES THIS PARTICULAR THEORY. THIS

1 IS DEFENDANT'S EXHIBIT 560, IT'S IN EVIDENCE.

2 MR. VERDIELL SAID TO BOB LIN, HOW DID IT  
3 END UP WITH ASENQUA. MANY HEDGE FUNDS HAVE  
4 STRUGGLED WITH WITHDRAWAL LIQUIDITY THIS QUARTER.  
5 I SUPPOSE THEY WERE NOT IMMUNE.

6 AND THIS E-MAIL WAS SENT AROUND THE TIME  
7 OF MARCH 5TH, 2008.

8 NOW, THE GOVERNMENT ARGUED AND PRESENTED  
9 EVIDENCE TRYING TO SHOW THAT, WELL, WAIT A MINUTE,  
10 MR. HU DID NOT COME OUT AND SAY THAT THERE WAS THIS  
11 SPECIFIC PROBLEM PREVENTING HIM FROM LIQUIDATING  
12 THE ASSETS TO PAY THESE PEOPLE TO PAY BACK  
13 MR. VERDIELL, MR. LIN.

14 REMEMBER THE E-MAILS THAT MR. VERDIELL  
15 AND MR. HU EXCHANGED. HE -- AT ONE POINT  
16 MR. VERDIELL SAID, WHAT CONDITION? BECAUSE MR. HU  
17 SPECIFICALLY SAID, HEY, I'M WORKING OVER TIME HERE  
18 IN ASIA, I'M TRYING TO PUT OUT FIRES LEFT AND  
19 RIGHT. THERE ARE ALL SORTS OF PROBLEMS WITH THE  
20 BANKS.

21 SO AGAIN, THERE IS EVIDENCE THAT THERE  
22 WAS A REASON WHY THE MONEY HAD NOT BEEN FORTHCOMING  
23 WITHIN 12 MONTHS, MR. LIN AND MR. VERDIELL'S MAKING  
24 THEIR REQUEST TO WITHDRAW.

25 NOW, I THINK -- WE TALKED A LOT ABOUT

1 MR. LIN, BUT WHAT ABOUT MR. VERDIELL? MR. VERDIELL  
2 WHEN HE MET WITH AGENT FINE ON CHRISTMAS EVE 2008,  
3 THEY HAD AN INTERVIEW THAT PRODUCED FIVE PAGES OF  
4 FBI NOTES.

5 IN THAT INITIAL MEETING, THERE IS NO  
6 RECORD THAT MR. VERDIELL TOLD AGENT FINE OR ANYBODY  
7 THAT, WELL, I MADE THIS INVESTMENT BECAUSE I RELIED  
8 ON THE CASTILLO AUDITING FIRM, THE PROSKAUER LAW  
9 FIRM. HE NEVER SAID ANY OF THESE THINGS.

10 YES, HE SUBSEQUENTLY ADDED THOSE THINGS  
11 BUT THERE'S NO EVIDENCE OF WHAT HAPPENED IN  
12 BETWEEN. BUT WHEN HE MET WITH THE AGENT TO TELL  
13 HIS SIDE OF THE STORY, HE DID NOT SAY THAT HE HAD  
14 RELIED ON THESE THINGS.

15 BUT THERE'S MORE, THEY DIDN'T -- IT ISN'T  
16 AS THOUGH THEY DID NOT TALK ABOUT WHY MR. VERDIELL  
17 HAD MADE HIS INVESTMENTS. MR. VERDIELL SAID HE HAD  
18 TOLD AGENT FINE THAT YEAH, I MADE THE INVESTMENT  
19 BECAUSE ONE, I KNEW ABOUT THE OTHER INVESTORS AND  
20 TRUSTED THEM.

21 AND TWO, MR. BOND AND MR. HU WHEN I WAS  
22 TALKING TO THEM, MADE A GOOD PRESENTATION. I LIKE  
23 WHAT THEY HAD TO SAY. THEY WERE MY KIND OF PEOPLE.

24 NOW, THAT STATEMENT DOES NOT IN ANY WAY  
25 INCLUDE ANY REFERENCE TO ANY DOCUMENTS THAT HE

1 LOOKED AT OR THAT HE WAS RELYING ON BECAUSE AGAIN,  
2 WHAT WAS MATERIAL TO MR. VERDIELL IS EXACTLY WHAT  
3 HE TOLD AGENT FINE, THE PEOPLE INVOLVED AND MR. HU  
4 AND MR. BOND MAKING A GOOD IMPRESSION, THAT'S WHY  
5 HE INVESTED.

6 AND MR. LIN HIMSELF SAID, I INTRODUCED  
7 THE ASENQUA FUND, NOT JUST MR. HU, BUT THE ASENQUA  
8 TO MR. VERDIELL. THAT'S MR. LIN'S TESTIMONY. I  
9 INTRODUCED THE FUND TO MR. VERDIELL.

10 AND MR. LIN ALSO SAID, WELL, OF COURSE,  
11 I'VE KNOWN MARK FOR QUITE A WHILE SINCE THE LATE  
12 90'S BECAUSE AT THAT TIME MARK HAD A DREAM WITH HIS  
13 COMPANY, LIGHT LOGIC AND HE CAME TO ME FOR HELP FOR  
14 FINANCING FOR A VENTURE. AND I, BOB LIN, WAS ONE  
15 OF THE FIRST PEOPLE TO SEE THAT DREAM TO HELP HIM  
16 MAKE THAT REAL, VERY REAL. INTEL ACQUISITION OF  
17 THE COMPANY FOR \$400 MILLION.

18 UNDERSTANDABLY, THERE'S A VERY, VERY  
19 STRONG BOND BETWEEN MR. VERDIELL AND MR. LIN. AND  
20 MR. VERDIELL DID TRUST AND VALUE MR. LIN'S OPINION.  
21 THAT'S WHY HE INVESTED IN THE FIRESIDE FUND, NOT  
22 BECAUSE OF THE PROSKAUER ROSE LAW FIRM OR THE  
23 CASTILLO CPA FIRM.

24 AGAIN, MR. VERDIELL TESTIFIED THAT HE DID  
25 NOT EVEN RUN THIS INVESTMENT POSSIBILITY BY HIS

1       NORMAL TEAM OF INVESTMENT ADVISORS. HE TESTIFIED  
2       THAT HE, AT THAT TIME HE WORKED WITH PEOPLE WHO  
3       WOULD ADVISE HIM ABOUT INVESTMENTS. HE DIDN'T FEEL  
4       THE NEED TO.

5               WHY? DESPITE ALL THE WARNINGS OF THE  
6       PPM, WHY? ABOUT THE RISK INVOLVED. BECAUSE IT WAS  
7       ALL ABOUT THE PEOPLE INVOLVED AND IN PARTICULAR IT  
8       WAS BECAUSE BOB LIN HAD INTRODUCED THE FIRESIDE  
9       FUND TO HIM.

10              I THINK -- SO LET ME TRY TO SUM THINGS UP  
11       IN TERMS OF WHAT REALLY WAS MATERIAL IN THIS CASE.

12              I THINK ONE OF THE INVESTORS WHO DID NOT  
13       TESTIFY, ONE OF THE INVESTORS MR. ANDY YAN SAID IT  
14       BEST. MR. VERDIELL SAID, LOOK, I TALKED TO  
15       MR. YAN. MR. YAN SAID HE HAD KNOWN ABOUT MR. HU,  
16       HE HAD KNOWN MR. HU, HE HAD WORKED WITH MR. HU AND  
17       THAT HE ACTUALLY HAD NOT TRUSTED MR. HU AND HE HAD  
18       KNOWN MR. HU TO BE A LIAR.

19              BUT, AND THIS IS A SIGNIFICANT BUT, BUT  
20       MR. YAN STILL INVESTED WITH MR. HU.

21              SO WHAT THIS CASE IS ABOUT IS THE FACT  
22       THAT YES, MR. HU WAS VERY PERSUASIVE, HE WAS ABLE  
23       TO DRAW CONNECTIONS AND PROBABLY FLATTER A LOT OF  
24       PEOPLE LIKE HE DID WITH BOB LIN. BUT THAT WAS THE  
25       REASON WHY MR. LIN AND MR. VERDIELL MADE THEIR

1 INVESTMENT.

2 THAT IS WHAT IS MATERIAL, IT WAS NOT  
3 BECAUSE CASTILLO CPA FIRM SUPPOSEDLY SIGNED HIS  
4 NAME OR ANTHONY POLLACE HAD SIGNED ON AS THE CFO,  
5 BECAUSE OF COURSE THE ANTHONY POLLACE STATEMENTS OR  
6 HIS SIGNATURE NEVER APPEARED BEFORE MR. LIN OR  
7 MR. VERDIELL MADE THEIR INITIAL INVESTMENT.

8 SO HOW CAN YOU RELY ON SOMETHING THAT HAD  
9 NOT BEEN PRESENTED TO YOU BEFORE YOU MADE THE  
10 INVESTMENT? HOW CAN YOU SAY THAT ANTHONY POLLACE'S  
11 SIGNATURE WAS IMPORTANT TO ME, IT TERRIBLY  
12 INFLUENCED MY DECISION MAKING MY INVESTMENT BEFORE  
13 I SAW THE NAME ANTHONY POLLACE.

14 AND BY THE WAY, MR. LIN AND MR. VERDIELL  
15 BOTH SAID I NEVER MET MR. POLLACE. IT'S CERTAINLY  
16 COMMON SENSE TO INFER FROM THAT THEY PROBABLY COULD  
17 NOT PICK MR. POLLACE OUT OF A LINE UP. THEY  
18 PROBABLY DO NOT KNOW WHO HE WAS OR WHAT HE HAS  
19 DONE.

20 AGAIN, IT'S NOT ABOUT ANTHONY POLLACE.  
21 IT'S NOT ABOUT THE CASTILLO CPA FIRM BECAUSE ALL  
22 THEY HAD TO DO WAS SPEND TWO MINUTES ON THE WEB TO  
23 CHECK WHETHER OR NOT CASTILLO WAS AN ACTUAL CPA  
24 FIRM IN THE STATE OF CALIFORNIA.

25 AND MORE IMPORTANTLY, THEY COULD HAVE

1        ALSO FOUND OUT THAT ON THE WEBSITE WHETHER OR NOT  
2        THIS CPA FIRM HAD A RECORD OF DISCIPLINE PROBLEMS  
3        OF BEING, PEOPLE REPORTING DISCIPLINE PROBLEMS WITH  
4        INTERACTING WITH THE CPA FIRM.

5                AGAIN, THAT'S BECAUSE THEY DIDN'T CARE.  
6        JUST LIKE WHEN I POSTED BY HEIGHT OF 6'4 AND YOU  
7        NEVER THE LESS, ON MY PAGE AND ANOTHER PAGE I SAID  
8        I'M ACTUALLY ONLY 5'8, YOU DIDN'T CARE. YOU CAME  
9        TO ME ANY WAY BECAUSE YOU NEEDED THAT FOURTH PERSON  
10       FOR YOUR BRIDGE GAME AND YOU WANTED A WARM BODY, BE  
11       IT 6'4 OR 5'8 OR 5'7.

12               LET ME CLOSE BY TALKING JUST A LITTLE BIT  
13       ABOUT REASONABLE DOUBT. OF COURSE YOU HAVE THE  
14       JURY INSTRUCTION ON WHAT IS REASONABLE DOUBT AND  
15       EVERYTHING. AND THAT'S CERTAINLY VERY, VERY  
16       HELPFUL.

17               I WOULD KIND OF LIKE TO FRAME REASONABLE  
18       DOUBT KIND OF IN MY OWN WAY WHICH IS THAT WHEN YOU  
19       GET BACK INTO THE JURY ROOM, DELIBERATION ROOM, YOU  
20       WILL HAVE A VERY SPIRITED DISCUSSION ABOUT WHAT YOU  
21       HAVE HEARD WHAT YOUR OPINION IS, HOW YOU SEE THE  
22       CASE.

23               JUST KEEP THIS IN MIND. IF ONE OF YOUR  
24       COLLEAGUES ON THIS JURY, ONE OF YOUR COLLEAGUES HAS  
25       A DOUBT ABOUT ANY PARTICULAR IMPORTANT FACT, HERE'S



1 THE TEST, LISTEN TO THAT PERSON. YOU DON'T HAVE TO  
2 AGREE WITH THAT PERSON, YOU SIMPLY HAVE TO ASK  
3 YOURSELF, IS THE DOUBT THAT THIS, MY COLLEAGUE WITH  
4 WHOM I HAVE BEEN SITTING IN THIS COURTROOM FOR TWO  
5 WEEKS, IS THAT DOUBT REASONABLE OR IS IT JUST SO  
6 FAR OUT THERE IT'S JUST TOTALLY INHERENTLY NOT  
7 REASONABLE?

8 IF THAT DOUBT THAT'S EXPRESSED TO YOU IS  
9 REASONABLE, EVEN THOUGH HAVING HEARD IT YOU STILL  
10 WOULD NOT CHANGE, YOU STILL WOULD NOT COME TO A  
11 DIFFERENT CONCLUSION, THAT'S REASONABLE DOUBT.  
12 THAT'S WHEN YOU MUST FIND THAT EVEN THOUGH YOU  
13 YOURSELF MAY NOT AGREE A HUNDRED PERCENT, THAT IF  
14 YOU HEAR A DOUBT THAT'S REASONABLE EACH IF YOU  
15 DON'T ULTIMATE BUY INTO IT COMPLETELY, THAT'S  
16 REASONABLE DOUBT.

17 YOU HAVE BEEN EXTREMELY PATIENT AND I  
18 THANK YOU FOR YOUR ATTENTION.

19 THE COURT: ALL RIGHT.

20 WE WILL TAKE A 15-MINUTE BREAK, COME BACK  
21 AND HEAR THE GOVERNMENT'S REBUTTAL AND THEN WE WILL  
22 GIVE YOU THE INSTRUCTIONS.

23 (WHEREUPON A RECESS WAS TAKEN.)

24 THE COURT: ALL RIGHT.

25 MR. LUCEY, YOU WANT TO MAKE THE

1 GOVERNMENT'S FINAL CLOSE?

2 MR. LUCEY: THANK YOU, YOUR HONOR.

3  
4 **CLOSING ARGUMENTS BY MR. LUCEY**

5  
6 MR. LUCEY: GOOD AFTERNOON. MAY IT  
7 PLEASE THE COURT, COUNSEL.

8 MEMBERS OF THE JURY, GOOD AFTERNOON. MY  
9 NAME IS TIM LUCEY. I'M CO-COUNSEL WITH MR. FAZIOLI  
10 IN THE MATTER OF UNITED STATES V. ALBERT HU.

11 AS MR. FAZIOLI AND MR. FONG AND THE COURT  
12 HAVE ALREADY TOLD YOU, I ALSO JOIN IN THANKING YOU  
13 FOR YOUR SERVICE AS JURORS IN THIS MATTER AND YOUR  
14 ATTENTION THROUGHOUT THE PROCESS.

15 I WANT TO ADDRESS A COUPLE OF MATTERS AND  
16 ISSUES THAT MR. FONG RAISED DURING HIS CLOSING  
17 ARGUMENT.

18 FIRST OF ALL, I WANT TO ADDRESS THE ISSUE  
19 OF CERTAIN OF THE JURY INSTRUCTIONS THAT MR. FONG  
20 REVIEWED WITH YOU. AND IN PARTICULAR I WANT TO  
21 ADDRESS THE ISSUE OF MATERIALITY AND THE JURY  
22 INSTRUCTION THAT APPLIES HERE.

23 THE GOVERNMENT SUBMITS THAT MR. FONG  
24 MISSTATED THE INSTRUCTION THE COURT HAS GIVEN TO  
25 YOU THAT APPLIES TO WIRE FRAUD AND MATERIALITY.

1 AS MR. FAZIOLI REVIEWED WITH YOU EARLIER  
2 TODAY THE JURY INSTRUCTION THAT APPLIES AS TO  
3 MATERIALITY AS ONE OF THE ELEMENTS OF WIRE FRAUD  
4 THAT MUST ARE PROVEN BY THE GOVERNMENT IS THAT A  
5 FALSE OR FRAUDULENT PRETENSE, REPRESENTATION OR  
6 PROMISE IS MATERIAL IF IT HAD A NATURAL TENDENCY TO  
7 INFLUENCE OR WAS CAPABLE OF INFLUENCING A POTENTIAL  
8 INVESTOR TO PART WITH MONEY.

9 THE STANDARD IS NOT, AS MR. FONG  
10 INDICATED, THAT OF A SAVVY INVESTOR OR A PARTICULAR  
11 INVESTOR. IT IS -- HAD A NATURAL TENDENCY TO  
12 INFLUENCE OR WAS CAPABLE OF INFLUENCING A POTENTIAL  
13 INVESTOR AND PART WITH HIS MONEY, HIS OR HER MONEY.

14 NOW, LADIES AND GENTLEMEN, DID MR. HU'S  
15 NUMEROUS FALSE REPRESENTATIONS, FALSE PROMISES,  
16 FALSE PRETENSES HAVE A NATURAL TENDENCY TO  
17 INFLUENCE OR WERE CAPABLE OF INFLUENCING A  
18 POTENTIAL INVESTOR TO PART WITH MONEY? THE  
19 GOVERNMENT SUBMITS THE EVIDENCE IS OVERWHELMING.

20 YOU HAVE HEARD THE EVIDENCE, LADIES AND  
21 GENTLEMEN, DURING THE COURSE OF THIS TRIAL OF A  
22 SYSTEMATIC SERIAL, BRAZEN ATTEMPT AND CONDUCT BY  
23 MR. HU TO MAKE FALSE STATEMENTS, FALSE  
24 REPRESENTATIONS AND PRETENSES ON MATTERS THAT  
25 WERE -- THAT HAD A NATURAL TENDENCY AND WERE

1 CAPABLE OF -- AND/OR WERE CAPABLE OF INFLUENCING A  
2 POTENTIAL INVESTOR TO PART WITH MONEY.

3 AS MR. FAZIOLI ADVISED YOU EARLIER TODAY  
4 AND AS THE COURT WILL ADVISE YOU WHEN IT REVIEWS  
5 THE JURY INSTRUCTIONS FORMALLY IN JUST A MOMENT, AS  
6 PART OF YOUR DELIBERATIONS YOU USE YOUR REASON AND  
7 COMMON SENSE.

8 THE FALSE STATEMENTS HERE, THE FALSE  
9 PROMISES HERE, THE FALSE PRETENSES HERE ARE BRAZEN  
10 AND BREATHTAKING.

11 AS MR. FAZIOLI ALSO ADVISED YOU EARLIER  
12 TODAY IN REVIEWING THE JURY INSTRUCTIONS, YOU AS  
13 PART OF YOUR DELIBERATIONS WILL BE LOOKING AT THE  
14 WHOLE PICTURE AND THE CIRCUMSTANCES AS A WHOLE IN  
15 REVIEWING THE EVIDENCE AS TO EACH ELEMENT.

16 THE GOVERNMENT WOULD SUBMIT TO YOU THERE  
17 IS LIE, UPON LIE, UPON LIE, UPON LIE, IN THIS  
18 MATTER. LIE THAT IS WENT ON FOR YEARS LIES THAT  
19 WERE AT THE BEGINNING THAT WENT ON THROUGHOUT THE  
20 SCHEME OF THIS FRAUD. THAT MR. HU PROVIDED  
21 DOCUMENTS OR STATEMENTS THAT WERE CAPABLE OF  
22 INFLUENCING INVESTORS TO PART WITH MONEY.

23 THERE WERE LIE, UPON LIE AFTER MR. HU HAD  
24 RECEIVED MONEY FROM INVESTORS IN REGARD TO  
25 QUARTERLY STATEMENTS, IN REGARD TO HOW THEIR MONEY

1 WAS BEING INVESTED, IN REGARD TO WHO WAS ACTUALLY  
2 SIGNING DOCUMENTS.

3 AND AS A SCHEME TO DEFRAUD CONTINUED AND  
4 UNRAVELED, MR. HU CONTINUED TO PROVIDE LIE, UPON  
5 LIE, UPON LIE TO INVESTORS.

6 NOW, MR. FONG SPENT TIME TALKING TO YOU  
7 EARLIER TODAY ABOUT BOB LIN, ONE OF THE INVESTORS  
8 IN THE ASENQUA BETA FUND AND THE FIRESIDE FUND.  
9 AND TALKING ABOUT MR. LIN'S INVOLVEMENT IN THE  
10 ASENQUA VENTURES PARTNERS.

11 THE GOVERNMENT SUBMITS THAT USING YOUR  
12 REASON AND COMMON SENSE, THE GOVERNMENT SUBMITS THE  
13 EVIDENCE SHOWS THAT MR. LIN BECAME INVOLVED WITH  
14 THE ASENQUA VENTURE PARTNERS BECAUSE MR. HU HAD  
15 LIED TO HIM, HAD LIED TO HIM REPEATEDLY, BRINGING  
16 HIM INTO THE INVESTMENTS WITH THE ASENQUA BETA  
17 FUND, PROVIDING HIM WITH QUARTERLY STATEMENTS THAT  
18 CONTAINED MR. POLLACE'S FORGED SIGNATURE, PROVIDING  
19 HIM WITH QUARTERLY STATEMENTS REGARDING THE STATUS  
20 OF HIS INVESTMENTS WITH THE ASENQUA BETA FUND THAT  
21 DID NOT COMPORT WITH THE REALITY OF HOW THE MONEY  
22 HAD BEEN SPENT BY MR. HU, THAT HAD NOT IN FACT BEEN  
23 INVESTED IN HIGH TECHNOLOGY STOCKS AS MR. HU HAD  
24 PROMISED TO DO WITH MR. LIN'S MONEY.

25 INDEED AS MR. LIN TOLD YOU, AGAIN, YOUR

1 MEMORY CONTROLS HERE, BUT THE GOVERNMENT SUBMITS  
2 THE EVIDENCE IS MR. LIN INDICATED HE TRUSTED MR. HU  
3 AND HE WAS SATISFIED WITH THE RETURNS HE WAS SEEING  
4 ON THOSE QUARTERLY STATEMENTS.

5 REASON AND COMMON SENSE INDICATES THAT IT  
6 WOULD BE NATURAL FOR MR. LIN TO HAVE BECOME  
7 INVOLVED WITH THE ASENQUA VENTURE PARTNERS. AND  
8 THE LIES THAT HAD BEEN TOLD TO HIM HAD HAD A  
9 NATURAL TENDENCY TO INFLUENCE HIM.

10 MR. FONG ALSO DISCUSSED MR. VERDIELL.  
11 AND MR. VERDIELL'S STATEMENTS REGARDING THE  
12 DECEMBER 2007 PORTFOLIO REVIEW. MR. FONG HAD TOLD  
13 YOU THAT MR. VERDIELL TESTIFIED THAT IN  
14 MR. VERDIELL'S VIEW, MR. HU AND MR. BOND HAD PASSED  
15 THAT TEST WITH FLYING COLORS.

16 THE GOVERNMENT SUBMITS THE IMPORTANT PART  
17 OF THAT MEETING USING YOUR REASON AND COMMON SENSE  
18 IN REVIEWING THE EVIDENCE, IS THAT THIS MEETING  
19 SHOWS IN FACT THAT MR. HU WAS STILL LYING TO  
20 MR. VERDIELL EVEN AS MR. VERDIELL WAS DOING HIS  
21 LEVEL BEST TO TRY TO DETERMINE THE STATUS OF HIS  
22 INVESTMENTS TO, AS MR. VERDIELL SAID DURING HIS  
23 TESTIMONY, TRYING TO FIND A LITTLE MORE INFORMATION  
24 AS THE QUARTERLY STATEMENTS DIDN'T PROVIDE A LITTLE  
25 MORE LEVEL OF DETAIL.

1 HE TOOK THE TIME TO AND YOUR MEMORY  
2 CONTROLS HERE BUT THE GOVERNMENT SUBMIT THAT IS HE  
3 TOOK THE TIME TO SIT DOWN AND MEET WITH MR. HU  
4 ALONG WITH MR. BOND AND REVIEW THE STATUS OF HIS  
5 INVESTMENTS IN THE FIRESIDE FUND. NOT KNOWING, NOT  
6 KNOWING THAT TWO MONTHS EARLIER HIS MONEY HAD  
7 ALREADY ALL ESSENTIALLY BEEN SPENT.

8 THE \$2 MILLION HE PROVIDED IN APRIL 2007  
9 TO THE CREDIT SUISSE ACCOUNT HAD ALREADY BEEN AS  
10 AGENT FINE TESTIFIED IN HIS SUMMARY TESTIMONY,  
11 ESSENTIALLY EXHAUSTED AS OF OCTOBER 23RD, 2007,  
12 MONTHS BEFORE THIS DETAILED PORTFOLIO REVIEW FOR  
13 WHICH HE NEVER RECEIVED ANY DOCUMENTS OR ANY  
14 MATERIALS OTHER THAN THE SCREEN VIEWS THAT MR. HU  
15 AND MR. BOND SHOWED HIM ON THEIR COMPUTERS.

16 AGAIN, LADIES AND GENTLEMEN, THE  
17 GOVERNMENT WOULD SUBMIT THAT THE EVIDENCE IS  
18 OVERWHELMING THAT THE FALSE STATEMENTS WERE CAPABLE  
19 OF INFLUENCING A POTENTIAL INVESTOR TO PART WITH  
20 MONEY. BEYOND LOOKING AT YOUR REASON AND COMMON  
21 SENSE OF THE VARIOUS FACTS OF THIS MATTER OF THE  
22 DOCUMENTS AND OF THE CIRCUMSTANCES, YOU ALSO HEARD  
23 FROM THE INVESTORS THAT THEY WERE INFLUENCED. AND  
24 YOU CAN ASSESS THEIR CREDIBILITY.

25 BUT LADIES AND GENTLEMEN OF THE JURY, YOU

1 CAN ALSO INFER THAT THOSE FALSE STATEMENTS WERE  
2 MATERIAL BY THE FACT THAT THE DEFENDANT CHOSE TO  
3 INCLUDE THE FALSE STATEMENTS TO LURE INVESTORS IN,  
4 TO KEEP THEM IN THE FUNDS, AND THEN TO DISTRACT  
5 THEM FROM THE FACT THAT THEY CANNOT RECEIVE THEIR  
6 MONEY BACK, TO BRIBE THEM WITH REASON AFTER REASON,  
7 WHICH WAS LIE, AFTER LIE ABOUT WHAT IN FACT HAD  
8 HAPPENED TO THEIR MONEY.

9 MR. FONG SPENT SOME TIME TALKING ABOUT  
10 THE MASTER FEEDER FUND IN REGARD TO THE ASENQUA  
11 FUND AND FIRESIDE FUND AND TALKING ABOUT HOW IN HIS  
12 VIEW IT INDICATES THE MONEY SOMEHOW HAD BEEN  
13 POOLED.

14 AGAIN, THE GOVERNMENT SUBMITS THAT YOU,  
15 LADIES AND GENTLEMEN, NEED TO USE YOUR REASON AND  
16 COMMON SENSE. THE GOVERNMENT SUBMITS THAT AGENT  
17 FINE TESTIFIED THAT HIS ATTEMPT IN LOOKING AT THE  
18 FIVE WIRES OF MONEY, THE FIVE TRANSFERS OF ACTUAL  
19 MONEY THAT WERE DONE BY MR. LIN AND MR. VERDIELL,  
20 THAT HE ATTEMPTED TO LOOK AT ALL THE INDICATIONS AS  
21 TO TRACING THE MONEY, FOLLOWING THE MONEY, THAT WAS  
22 HIS GOAL LOOKING AT THOSE FUNDS FOR EACH OF THOSE  
23 FIVE WIRE TRANSFERS.

24 HE INDICATED IN HIS TESTIMONY THAT HE NOT  
25 MAKE ANY DISTINGUISHING CHARACTERISTICS BETWEEN



1 BANK ACCOUNTS, HE WAS TRYING TO FOLLOW THE MONEY.

2 AND LADIES AND GENTLEMEN, AS YOU HEARD IN  
3 HIS TESTIMONY, LADIES AND GENTLEMEN, HE DID NOT SEE  
4 ANY INDICATION OF ANY TRADING ACTIVITY OTHER THAN  
5 THE SMALL AMOUNT OF MONEY OF MR. VERDIELL'S WIRE  
6 THAT WERE TRADED IN SECURITIES BUT WHICH AS AGENT  
7 FINE TESTIFIED EACH AFTER IT WAS SOLD, WAS NOT  
8 RETURNED TO MR. VERDIELL. OR AFTER THE MONEY THAT  
9 WAS MERGED WITH MR. LIN, RETURNED TO MR. LIN  
10 EITHER.

11 IF IN FACT, AS MR. FONG PURPORTS THE  
12 MONEY WAS POOLED IN SOME OTHER ACCOUNT, IT'S CLEAR  
13 THAT THAT POOL WAS ULTIMATELY DRAINED. DRAINED BY  
14 ALBERT HU FOR HIS BENEFIT.

15 THERE WAS ALSO A DISCUSSION DURING  
16 MR. FONG'S CLOSING ARGUMENT ABOUT REASONABLE DOUBT.  
17 AND I THINK IT'S IMPORTANT FOR US TO REVIEW THAT  
18 DISCUSSION AS WELL, LADIES AND GENTLEMEN.

19 MR. FONG MADE REFERENCE TO LOOKING FOR  
20 ANY DOUBT THAT MAY BE OUT STANDING FOR ANY ONE  
21 JUROR. THE GOVERNMENT SUBMITS THAT MISSTATES THE  
22 STANDARD FOR CONVICTION HERE. AND THE STANDARD OF  
23 REASONABLE DOUBT.

24 AS MR. FAZIOLI REVIEWED WITH YOU EARLIER  
25 TODAY AND JUDGE WHYTE WILL REVIEW WITH YOU WITH ALL

1 THE JURY INSTRUCTIONS IN A MOMENT, PROOF BEYOND A  
2 REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY  
3 CONVINCED THAT THE DEFENDANT IS GUILTY. IT IS NOT  
4 REQUIRED THAT THE GOVERNMENT PROVE GUILTY ALL  
5 POSSIBLE DOUBT.

6 A REASONABLE DOUBT IS A DOUBT BASED UPON  
7 REASON AND COMMON SENSE. AND IT IS NOT BASED  
8 PURELY ON SPECULATION.

9 THE GOVERNMENT SUBMITS THAT WILL BE  
10 IMPORTANT IN UNDERSTANDING THE STANDARD FOR  
11 EVALUATING THE EVIDENCE AS YOU MEET LATER ON TODAY  
12 TO BEGIN DELIBERATING ON THE EVIDENCE IN THIS CASE.

13 THERE WAS ALSO A DISCUSSION, LADIES AND  
14 GENTLEMEN ABOUT MR. POLLACE. AND MR. FONG  
15 INDICATING IN HIS VIEW IN HIS ARGUMENT THAT THERE  
16 WAS NO NEED FOR YOU AS A JURY TO CONSIDER THE  
17 QUARTERLY STATEMENTS OR MR. POLLACE'S SIGNATURE ON  
18 THOSE STATEMENTS.

19 THE GOVERNMENT SUBMITS THAT MR. POLLACE'S  
20 SIGNATURE ON THOSE DOCUMENTS IS MATERIAL, THAT A  
21 POTENTIAL INVESTOR WAS CAPABLE OF BEING INFLUENCED  
22 BY THE SIGNATURE OF THE PURPORTED CFO OF THE  
23 ASENQUA BETA FUND AND THE FIRESIDE FUND.

24 THE GOVERNMENT ALSO SUBMITS THAT AS  
25 MR. LIN TESTIFIED AFTER RECEIVING HIS FIRST FEW

1 QUARTERLY STATEMENTS AND SEEING THE RETURNS, HE  
2 MADE FURTHER INVESTMENTS. AND THE GOVERNMENT  
3 SUBMITS THAT MR. LIN TESTIFIED THAT HE HAD SEEN THE  
4 SIGNATURES OF MR. HU AND MR. POLLACE ON THOSE  
5 QUARTERLY STATEMENTS.

6 AND THOSE SIGNATURES CONTINUED THEREAFTER  
7 AND THEREAFTER CAUSED HIM ALONG WITH THE OTHER  
8 FALSE STATEMENTS HE HAD RECEIVED AND QUARTERLY  
9 STATEMENTS AND DOCUMENTS, TO MAKE INVESTMENTS THERE  
10 AFTER IN THE FIRESIDE FUND AS WELL.

11 LADIES AND GENTLEMEN, THERE'S ALSO A  
12 DISCUSSION BY MR. FONG ABOUT THE CASTILLO LYN  
13 STATEMENTS, EXHIBIT 1. AND MR. FONG DISCUSSING  
14 ABOUT THE VALUATIONS IN THAT EXHIBIT 1 DOCUMENT AND  
15 THE TRUTH OR EVIDENCE CALCULATING IN THERE.

16 AND IN MR. FONG'S VIEW THAT WAS THE MOST  
17 IMPORTANT PART OF THE DOCUMENT. THE GOVERNMENT  
18 SUBMITS THAT THE DOCUMENTS THEMSELVES, AND IN  
19 PARTICULAR THE PAGE THAT MR. FAZIOLI REVIEWED WITH  
20 YOU, THE SIGNATURE PAGE SIGNED BY MR. CASTILLO,  
21 INDICATING THAT IT WAS A REPORT OF INDEPENDENT  
22 AUDITORS THAT THE BOOKS AND RECORDS OF THE ASENQUA  
23 BETA FUND HAD BEEN EXAMINED BY THE CASTILLO LYN  
24 FIRM AS OF DECEMBER 31ST, 2004, HAD A NATURAL  
25 TENDENCY OR WAS CAPABLE OF INFLUENCING A POTENTIAL

1 INVESTOR TO PART WITH MONEY.

2 AND IN FACT THE GOVERNMENT SUBMITS YOU  
3 HEARD TESTIMONY FROM MR. LIN ABOUT THOSE AUDITED  
4 STATEMENTS ABOUT THAT LANGUAGE IN PARTICULAR ON THE  
5 SIGNATURE PAGE SIGNED BY MR. CASTILLO.

6 THERE WAS ALSO TESTIMONY BY GRACE DOONG  
7 TO THAT SAME EFFECT. AND THE REFERENCE TO CASTILLO  
8 LYN WERE IN THE DOCUMENTS PRIOR TO MR. CASTILLO  
9 MAKING HIS INVESTMENT.

10 AND MR. FONG HAD A DISCUSSION ABOUT THE  
11 IN EXCESS OF \$200 MILLION OF ASSET VALUE THAT  
12 MR. HU HAD REPRESENTED DURING THAT 2008 WEBEX CALL  
13 WITH GRACE DOONG AMONG OTHERS INDICATING THAT  
14 THERE'S NO EVIDENCE THAT THAT NUMBER IS NOT IN FACT  
15 ACCURATE.

16 THE GOVERNMENT SUBMITS IT IS HERE, AGAIN,  
17 IMPORTANT FOR YOU TO USE YOUR REASON AND COMMON  
18 SENSE. BOB LIN, MARK VERDIELL, GRACE DOONG, NONE  
19 OF THEM EVER GOT ANY OF THEIR INVESTMENT BACK.

20 THE GOVERNMENT SUBMITS THAT IN FACT THAT  
21 VALUATION PROVIDED BY MR. HU TO MS. DOONG AND  
22 OTHERS DURING THAT 2008 WEBEX CALL WAS JUST ONE  
23 MORE LIE IN MR. HU'S SCHEME TO DEFRAUD THAT HAD GUN  
24 YEARS EARLIER. AND THAT IT WAS PART OF THE SAME  
25 PATTERN OF BRAZEN, SYSTEMATIC SERIAL LIES THAT

1 MR. HU HAD ENGAGED IN, KNOWINGLY AND INTENTIONALLY  
2 TO STEAL MONEY FROM INVESTORS, TO TAKE THEIR MONEY  
3 AND NOT INVEST IT IN HIGH TECHNOLOGY STOCKS,  
4 ESSENTIALLY ALL THEIR ASSETS AS THE INVESTMENT  
5 DOCUMENTS PROVIDED.

6 YOU HEARD THE TESTIMONY OF SPECIAL AGENT  
7 FINE TRACING THE MONEY FOR EACH OF THE FIVE WIRE  
8 TRANSFERS FROM BOB LIN AND MARK VERDIELL, SHOWING  
9 THAT WITH THE EXCEPTION OF MR. VERDIELL'S  
10 \$2 MILLION THERE WAS NO INDICATION OF TRADING. AND  
11 EVEN WHEN A SMALL PORTION OF MR. VERDIELL'S MONEY  
12 WAS USED TO PURCHASE SECURITIES, THOSE PROCEEDS  
13 NEVER WENT BACK AFTER THOSE STOCKS WERE SOLD TO THE  
14 BENEFIT OF MR. VERDIELL.

15 MR. FONG ALSO MADE REFERENCE TO PROBLEMS  
16 THAT MR. HU INDICATED HE WAS HAVING IN 2008  
17 RETURNING THE MONEY AND MR. FONG ALSO MADE  
18 REFERENCE TO VARIOUS FINANCIAL DIFFICULTIES THAT  
19 WERE OCCURRING IN THE MARKET IN 2008.

20 THE GOVERNMENT SUBMITS THERE IS NO REASON  
21 TO BELIEVE THAT MR. HU'S FUNDS FAILED BECAUSE OF  
22 ANY PROBLEMS IN CONNECTION WITH THE INDICATIONS AND  
23 DISCUSSIONS THAT WERE IN MR. HU'S E-MAILS TO THE  
24 INVESTORS.

25 AS MR. FINE HAD TESTIFIED, THE MONEY WAS

1 GONE, ESSENTIALLY GONE, AS OF OCTOBER 23RD, 2007.  
2 AND THAT MR. LIN ASKED FOR HIS MONEY BACK IN 2007.  
3 THAT MS. DOONG EXECUTED HER WITHDRAWAL FORM ALONG  
4 WITH HER SISTER IN MR. HU'S PRESENCE IN WHICH SHE  
5 ASKED HIM TO SIGN A SECOND TIME IN HER PRESENCE IN  
6 2007. AND THAT MR. VERDIELL FORMALIZED HIS REQUEST  
7 FOR HIS MONEY IN EARLY 2008.

8 NONE OF THEM RECEIVED THEIR FUNDS BACK.  
9 THEIR MONEY WAS NOT INVESTED AS THEY HAD BEEN  
10 PROMISED BY MR. HU.

11 IN CLOSING, LADIES AND GENTLEMEN, THE  
12 GOVERNMENT SUBMITS THAT THE EVIDENCE IS  
13 OVERWHELMING THAT ALBERT HU ACTED KNOWINGLY AND  
14 INTENTIONALLY TO MAKE MATERIALLY FALSE STATEMENT  
15 THAT IS HE KNEW WERE FALSE, HE RAN THE ASENQUA BETA  
16 AND FIRESIDE FUNDS, HE CONTROLLED THE MONEY, MR. HU  
17 HAD DIRECT CONTACT WITH THE INVESTORS, MR. HU  
18 PROVIDED THE INVESTMENT DOCUMENTS, MR. HU PROVIDED  
19 THE DOCUMENTS CONTAINING FORGED SIGNATURES OF  
20 ANTHONY POLLACE, MR. HU LEASED THE SPACE FOR  
21 CASTILLO, LYN, COHEN & VIJAY AUDITING FIRM, MR. HU  
22 PROVIDED THE AUDITED STATEMENTS FROM THE CASTILLO,  
23 LYN, COHEN & VIJAY FIRM TO THE INVESTORS, MR. HU  
24 PROMISED TO INVEST THEIR MONEY IN HIGH TECHNOLOGY  
25 STOCKS, HE DID NOT DO SO.

1 MR. HU PROMISED TO RETURN THE INVESTOR'S  
2 MONEY EVEN WHEN HE KNEW THE MONEY WAS ALREADY GONE.

3 THE GOVERNMENT SUBMITS THE EVIDENCE IS  
4 OVERWHELMING IN THIS CASE AS TO EACH COUNT, EACH OF  
5 THE SEVEN COUNTS OF WIRE FRAUD.

6 THE GOVERNMENT ASKS THAT YOU RETURN A  
7 GUILTY VERDICT ON ALL COUNTS AGAINST THE DEFENDANT,  
8 ALBERT HU.

9 THE COURT: ALL RIGHT. THANK YOU.

10 MS. GARCIA, WOULD YOU PASS OUT THE  
11 INSTRUCTIONS, AND THE VERDICT FORMS.

12 THE COURT: BEFORE I READ THESE  
13 INSTRUCTIONS LET ME MAKE A COUPLE OF COMMENTS.

14 ONE IS THE JURY INSTRUCTIONS ARE FOR YOU  
15 TO USE AS YOU SEE FIT. IF YOU FIND IT HELPFUL TO  
16 FOLLOW ALONG AS I READ THEM, THAT'S FINE. IF IT'S  
17 EASIER FOR YOU TO JUST LISTEN TO WHAT I'M SAYING  
18 AND SAVE THOSE FOR LATER REFERENCE, THAT'S FINE  
19 TOO. IT'S YOUR COPY TO USE IN WHATEVER WAY WILL  
20 HELP YOU MAKE NOTES ON IT IF YOU WANT OR NOT.

21 THE VERDICT FORM WILL BE SIGNED ONLY BY  
22 THE PRESIDING OR FOREPERSON OF THE JURY. I'VE  
23 GIVEN YOU EACH A COPY SO THAT WHEN YOU'RE  
24 DELIBERATING YOU CAN SEE THE FORM THAT NEEDS TO BE  
25 FILLED OUT BUT THE ACTUAL VERDICT FORM SHOULD BE

1 FILLED OUT AND SIGNED BY WHOEVER IS THE PRESIDING  
2 OR FOREPERSON OF THE JURY.

3 SO LET ME NOW READ THE INSTRUCTIONS TO  
4 YOU.

5 **JURY INSTRUCTIONS**

6  
7 MEMBERS OF THE JURY, NOW THAT YOU HAVE  
8 HEARD ALL THE EVIDENCE, IT IS MY DUTY TO INSTRUCT  
9 YOU ON THE LAW WHICH APPLIES TO THIS CASE. A COPY  
10 OF THESE INSTRUCTIONS HAS BEEN GIVEN TO YOU FOR YOU  
11 TO CONSULT.

12 IT IS YOUR DUTY TO FIND THE FACTS FROM  
13 ALL THE EVIDENCE IN THE CASE. TO THOSE FACTS YOU  
14 WILL APPLY THE LAW AS I GIVE IT TO YOU. YOU MUST  
15 FOLLOW THE LAW AS I GIVE IT TO YOU WHETHER OR NOT  
16 YOU AGREE WITH IT OR NOT. AND YOU MUST NOT BE  
17 INFLUENCED BY ANY PERSONAL LIKES OR DISLIKES,  
18 OPINIONS, PREJUDICES, OR SYMPATHY.

19 THAT MEANS THAT YOU MUST DECIDE THE CASE  
20 SOLELY ON THE EVIDENCE BEFORE YOU. YOU WILL RECALL  
21 THAT YOU TOOK AN OATH PROMISING TO DO SO AT THE  
22 BEGINNING OF THE CASE.

23 IN FOLLOWING MY INSTRUCTIONS, YOU MUST  
24 FOLLOW ALL OF THEM AND NOT SINGLE OUT SOME AND  
25 IGNORE OTHERS. THEY ARE ALL EQUALLY IMPORTANT.



1       YOU MUST NOT READ INTO THESE INSTRUCTIONS OR INTO  
2       ANYTHING THE COURT MAY HAVE SAID OR DONE ANY  
3       SUGGESTION AS TO WHAT VERDICT YOU SHOULD RETURN,  
4       THAT IS A MATTER ENTIRELY UP TO YOU.

5               THE INDICTMENT IS NOT EVIDENCE. MR. HU  
6       HAS PLEADED NOT GUILTY TO THE CHARGES. HE'S  
7       PRESUMED TO BE INNOCENT AND UNLESS AND UNTIL THE  
8       GOVERNMENT PROVES HIM GUILTY BEYOND A REASONABLE  
9       DOUBT. IN ADDITION, THE DEFENDANT DOES NOT HAVE TO  
10      TESTIFY OR PRESENT ANY EVIDENCE TO PROVE INNOCENCE.

11             THE GOVERNMENT HAS THE BURDEN OF PROVING  
12      EVERY ELEMENT OF THE COUNT BEYOND A REASONABLE  
13      DOUBT BEFORE THE DEFENDANT CAN BE FOUND GUILTY OF  
14      THAT COUNT.

15             A DEFENDANT IN A CRIMINAL CASE HAS A  
16      CONSTITUTIONAL RIGHT NOT TO TESTIFY. YOU MAY NOT  
17      DRAW ANY INFERENCE OF ANY KIND FROM THE FACT THAT  
18      MR. HU DID NOT TESTIFY.

19             PROOF BEYOND A REASONABLE DOUBT IS PROOF  
20      THAT LEAVES YOU FIRMLY CONVINCED THAT THE DEFENDANT  
21      IS GUILTY. IT IS NOT REQUIRED THAT THE GOVERNMENT  
22      PROVE GUILTY BEYOND ALL POSSIBLE DOUBT.

23             A REASONABLE DOUBT IS A DOUBT BASED UPON  
24      REASON AND COMMON SENSE AND IS NOT BASED PURELY ON  
25      SPECULATION. IF MAY ARISE FROM A CAREFUL AND

1 IMPARTIAL CONSIDERATION OF ALL THE EVIDENCE OR FROM  
2 LACK OF EVIDENCE.

3 IF AFTER A CAREFUL AND IMPARTIAL  
4 CONSIDERATION OF ALL THE EVIDENCE YOU ARE NOT  
5 CONVINCED BEYOND A REASONABLE DOUBT THAT MR. HU IS  
6 GUILTY, IT IS YOUR DUTY TO FIND HIM NOT GUILTY.

7 ON THE OTHER HAND IF AFTER A CAREFUL AND  
8 IMPARTIAL CONSIDERATION OF ALL THE EVIDENCE YOU ARE  
9 CONVINCED BEYOND A REASONABLE DOUBT THAT MR. HU IS  
10 GUILTY, IT IS YOUR DUTY TO FIND HIM GUILTY.

11 THE EVIDENCE FROM WHICH YOU ARE TO DECIDE  
12 WHAT THE FACTS ARE CONSISTS OF ONE, THE SWORN  
13 TESTIMONY OF ANY WITNESS.

14 TWO, THE EXHIBITS WHICH HAVE BEEN  
15 RECEIVED INTO EVIDENCE.

16 AND THREE, ANY FACTS TO WHICH THE PARTIES  
17 HAVE AGREED.

18 THE PARTIES HAVE AGREED TO CERTAIN  
19 STIPULATIONS OF FACT THAT HAVE BEEN READ TO YOU.  
20 YOU SHOULD THEREFORE TREAT THE FACTS IN THOSE  
21 STIPULATIONS AS HAVING BEEN PROVED.

22 IN REACHING YOUR VERDICT YOU MAY CONSIDER  
23 ONLY THE TESTIMONY AND EXHIBITS RECEIVED IN  
24 EVIDENCE. THE FOLLOWING THINGS ARE NOT IN EVIDENCE  
25 AND YOU MAY NOT CONSIDER THEM IN DECIDING WHAT THE

1       FACTS ARE.

2               QUESTIONS AND STATEMENTS, OBJECTIONS AND  
3       ARGUMENTS BY THE LAWYERS ARE NOT EVIDENCE. THE  
4       LAWYERS ARE NOT WITNESSES. ALTHOUGH YOU MUST  
5       CONSIDER A LAWYER'S QUESTIONS TO UNDERSTAND THE  
6       ANSWERS OF A WITNESS, THE LAWYER'S QUESTIONS ARE  
7       NOT EVIDENCE.

8               SIMILARLY, WHAT THE LAWYERS HAVE SAID IN  
9       THEIR OPENING STATEMENTS, CLOSING ARGUMENTS AND AT  
10      OTHER TIMES IS INTENDED TO HELP YOU INTERPRET THE  
11      EVIDENCE, BUT IT IS NOT EVIDENCE.

12              IF THE FACTS AS YOU REMEMBER THEM DIFFER  
13      FROM THE WAY THE LAWYERS STATED THEM, YOUR MEMORY  
14      OF THEM CONTROLS.

15              ANY TESTIMONY THAT I HAVE EXCLUDED,  
16      STRICKEN OR INSTRUCTED YOU TO DISREGARD IS NOT  
17      EVIDENCE. IN ADDITION, SOME EVIDENCE WAS RECEIVED  
18      FOR A LIMITED PURPOSE. WHEN I INSTRUCTED YOU TO  
19      CONSIDER EVIDENCE, CERTAIN EVIDENCE IN A LIMITED  
20      WAY, YOU MUST DO SO.

21              ANYTHING YOU MAY HAVE SEEN OR HEARD WHEN  
22      THE COURT IS NOT IN SESSION IS NOT EVIDENCE. YOU  
23      ARE TO DECIDE THE CASE SALLY ON IT IS EVIDENCE  
24      RECEIVED AT THE TRIAL.

25              EVIDENCE MAY BE DIRECT OR CIRCUMSTANTIAL.

1 DIRECT EVIDENCE IS DIRECT PROOF OF A FACT SUCH AS  
2 TESTIMONY BY A WITNESS ABOUT WHAT THAT WITNESS  
3 PERSONALLY SAW OR HEARD OR DID.

4 CIRCUMSTANTIAL EVIDENCE IS INDIRECT  
5 EVIDENCE. THAT IS THE PROOF OF ONE OR MORE FACTS  
6 FROM WHICH YOU CAN FIND ANOTHER FACT.

7 YOU ARE TO CONSIDER BOTH  
8 CIRCUMSTANTIAL -- YOU ARE TO CONSIDER BOTH DIRECT  
9 AND CIRCUMSTANTIAL EVIDENCE, THERE SHOULD BE AN  
10 EVIDENCE AT THE END OF THAT SENTENCE.

11 EITHER CAN BE USED TO PROVE ANY FACT.  
12 THE LAW MAKES NO DISTINCTION BETWEEN THE WEIGHT TO  
13 BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL  
14 EVIDENCE. IT IS FOR YOU TO DECIDE HOW MUCH WEIGHT  
15 TO GIVE TO ANY EVIDENCE.

16 IN DECIDING THE FACTS IN THIS CASE, YOU  
17 MAY HAVE TO DECIDE WHICH TESTIMONY TO BELIEVE AND  
18 WHICH TESTIMONY NOT TO BELIEVE. YOU MAY BELIEVE  
19 EVERYTHING A WITNESS SAYS OR PART OF IT OR NONE OF  
20 IT.

21 IN CONSIDERING THE TESTIMONY OF ANY  
22 WITNESS YOU MAY TAKE INTO ACCOUNT THE WITNESS'S  
23 OPPORTUNITY AND ABILITY TO SEE OR HEAR OR KNOW THE  
24 THINGS TESTIFIED TO.

25 THE WITNESS'S MEMORY, THE WITNESS'S

1 MANNER WHILE TESTIFYING, THE WITNESS'S INTEREST IN  
2 THE OUTCOME IN THE CASE, IF ANY, THE WITNESS'S BIAS  
3 OR PREJUDICE, IF ANY, WHETHER OTHER EVIDENCE  
4 CONTRADICTED THE WITNESS'S TESTIMONY, THE  
5 REASONABLENESS OF THE WITNESS'S TESTIMONY IN LIGHT  
6 OF ALL THE EVIDENCE, AND ANY OTHER FACTORS THAT  
7 BEAR ON BELIEVABILITY.

8 THE WEIGHT OF THE EVIDENCE AS TO A FACT  
9 DOES NOT NECESSARILY DEPEND ON THE NUMBER OF  
10 WITNESSES WHO TESTIFY. WHAT IS IMPORTANT IS HOW  
11 BELIEVABLE THE WITNESSES WERE, AND HOW MUCH WEIGHT  
12 YOU THINK THEIR TESTIMONY DESERVES.

13 YOU ARE HERE ONLY TO DETERMINE WHETHER  
14 MR. HU IS GUILTY OR NOT GUILTY OF THE CHARGES IN  
15 THE INDICTMENT. MR. HU IS NOT ON TRIAL FOR ANY  
16 CONDUCT OR OFFENSE NOT CHARGED IN THE INDICTMENT.

17 YOU HAVE HEARD EVIDENCE RELATING TO  
18 INVESTMENT FUNDS THAT MR. HU OBTAINED FROM  
19 GRACE DOONG AND HER SISTER. MR. HU IS NOT CHARGED  
20 IN THIS CASE WITH WIRE FRAUD WITH RESPECT TO WIRE  
21 TRANSFERS OF MONEY MADE BY MS. DOONG AND HER  
22 SISTER. YOU MAY CONSIDER THE TESTIMONY OF  
23 MS. DOONG REGARDING THE REPRESENTATIONS MADE TO HER  
24 ONLY ON THE LIGHT IT SHEDS, IF ANY, ON THE QUESTION  
25 OF WHETHER MR. HU WAS ENGAGED IN A FRAUDULENT

1 SCHEME AND ON HIS INTENT MOTIVE OR PLAN AT THE TIME  
2 HE OBTAINED THE MONEY HE IS CHARGED WITH HAVING  
3 OBTAINED FROM BOB LIN AND MARK VERDIELL.

4 A SEPARATE CRIME IS CHARGED AGAINST  
5 MR. HU IN EACH COUNT. YOU MUST DECIDE EACH COUNT  
6 SEPARATELY. YOUR VERDICT ON ONE COUNT SHOULD NOT  
7 CONTROL YOUR VERDICT ON ANY OTHER COUNT.

8 CERTAIN CHARTS AND SUMMARIES HAVE BEEN  
9 ADMITTED IN EVIDENCE. CHARTS AND SUMMARIES ARE  
10 ONLY AS GOOD AS THE UNDERLYING SUPPORTING MATERIAL.  
11 YOU SHOULD, THEREFORE, GIVE THEM ONLY SUCH WEIGHT  
12 AS YOU THINK THE UNDERLYING MATERIAL DESERVES.

13 MR. HU IS CHARGED WITH SEVEN COUNTS OF  
14 WIRE FRAUD. THE GOVERNMENT CHARGES THAT ON THE  
15 DATES LISTED BELOW ALBERT HU, HAVING KNOWINGLY AND  
16 INTENTIONALLY DEVISED A SCHEM TO DEFRAUD AND TO  
17 OBTAIN MONEY BY MEANS OF MATERIAL FALSE AND  
18 FRAUDULENT PRETENSES, REPRESENTATION CUBICLES AND  
19 PROMISES, DID FOR THE PURPOSE OF EXECUTING THE  
20 SCHEME, KNOWINGLY CAUSE TO BE TRANSMITTED IN  
21 INTERSTATE OR FOREIGN COMMERCE, THE FOLLOWING WIRES  
22 OR WIRE COMMUNICATIONS.

23 COUNT ONE, THE TRANSFER DATE OF  
24 FEBRUARY 8TH, 2005, AN INTERSTATE WIRE TRANSFER OF  
25 \$100,000 SENT BY OR ON BEHALF OF MR. LIN TO A BANK

1 OF AMERICA ACCOUNT ENDING IN 6581.

2 COUNT TWO, DATE OF FEBRUARY 23RD, 2005,  
3 AN INTERSTATE WIRE TRANSFER OF \$100,000 SENT BY OR  
4 ON BEHALF OF MR. LIN TO BANK OF AMERICA ACCOUNT  
5 ENDING IN 6581.

6 COUNT 3, JULY 6, 2005, INTERSTATE WIRE  
7 TRANSFER OF \$250,000 SENT BY OR ON BEHALF OF  
8 MR. LIN TO A BANK OF AMERICA ACCOUNT ENDING IN  
9 6581.

10 COUNT 4, APRIL 27, 2007, INTERSTATE WIRE  
11 COMMUNICATION DIRECTING A \$2 MILLION WIRE TRANSFER  
12 BE SENT BY OR ON BEHALF OF MR. VERDIELL TO A CREDIT  
13 SUISSE ACCOUNT ENDING IN 1780.

14 COUNT FIVE, AN INTERSTATE WIRE DATED  
15 APRIL 30TH, 2007, INTERNATIONAL WIRE TRANSFER OF  
16 \$2 MILLION SENT BY OR ON BEHALF OF MR. VERDIELL TO  
17 A CREDIT SUISSE ACCOUNT ENDING IN 1780.

18 COUNT 6, JUNE 19, 2007, AN INTERSTATE  
19 WIRE COMMUNICATION DIRECTING THAT A \$250,000 WIRE  
20 TRANSFER BE SENT BY OR ON BEHALF OF MR. LIN TO A  
21 CREDIT SUISSE ACCOUNT ENDING IN 1780.

22 AND COUNT SEVEN, A JUNE 19, 2007,  
23 INTERNATIONAL WIRE TRANSFER OF \$250,000 SENT BY OR  
24 ON BEHALF OF MR. LIN TO A CREDIT SUISSE ACCOUNT  
25 ENDING IN 1780.

1           IN ORDER FOR MR. HU TO BE FOUND GUILTY OF  
2           ANY COUNT OF THE CHARGED OFFENSES OF WIRE FRAUD,  
3           THE GOVERNMENT MUST PROVE EACH OF THE FOLLOWING  
4           ELEMENTS BEYOND A REASONABLE DOUBT WITH RESPECT TO  
5           THAT COUNT.

6           FIRST, THE DEFENDANT KNOWINGLY DEvised A  
7           SCHEME OR PLAN TO DEFRAUD, OR A SCREAM OR PLAN FOR  
8           OBTAINING MONEY OR PROPERTY BY MEANS OF FALSE OR  
9           FRAUDULENT PRETENSES OR REPRESENTATIONS OR  
10          PROMISES, WITH ALL OF YOU AGREEING ON AT LEAST ONE  
11          PARTICULAR FALSE OR FRAUDULENT PRETENSE,  
12          REPRESENTATION OR PROMISE THAT WAS MADE.

13          SECOND, THE DEFENDANT KNEW THAT THE  
14          PRETENSES, REPRESENTATIONS OR PROMISES WERE FALSE  
15          OR FRAUDULENT.

16          THIRD, THE FALSE OR FRAUDULENT PRETENSES  
17          REPRESENTATIONS OR PROMISES THAT WERE MADE AS PART  
18          OF THE SCHEME OR PLAN WERE MATERIAL.

19          FOURTH, THE DEFENDANT ACTED WITH THE  
20          INTENT TO DEFRAUD, THAT IS THE INTEND TO DECEIVE OR  
21          CHEAT.

22          AND FIFTH, THE DEFENDANT USED OR CAUSED  
23          TO BE USED INTERSTATE OR INTERNATIONAL WIRES TO  
24          CARRY OUT AN ESSENTIAL PART OF THE SCHEME.

25          IN DETERMINING WHETHER A SCHEME TO



1 DEFRAUD EXISTS YOU MAY CONSIDER NOT ONLY THE  
2 DEFENDANT'S WORDS OR STATEMENTS BUT ALSO THE  
3 CIRCUMSTANCES IN WHICH THEY WERE USED AS A WHOLE.

4 A FALSE OR FRAUDULENT PRETENSE,  
5 REPRESENTATION OR PROMISE IS MATERIAL IF IT HAD A  
6 NATURAL TENDENCY TO INFLUENCE, OR WAS CAPABLE OF  
7 INFLUENCING A POTENTIAL INVESTOR TO PART WITH  
8 MONEY.

9 A DEFENDANT USES OR CAUSES SOMEONE TO USE  
10 INTERSTATE WIRES WHEN HE KNOWS OR REASONABLY  
11 FORESEES IN THE ORDINARY COURSE OF BUSINESS THAT  
12 ANY WRITING SIGNAL OR SOUND WILL BE TRANSMITTED BY  
13 MEANS OF WIRE, RADIO, TELEVISION, COMMUNICATION  
14 FROM ONE STATE TO ANOTHER.

15 SIMILARLY, A DEFENDANT USES OR CAUSES  
16 SOMEONE TO USE INTERNATIONAL WIRES WHEN HE KNOWS,  
17 OR REASONABLY FORESEES IN THE ORDINARY COURSE OF  
18 BUSINESS THAT ANY WRITING, SIGNAL OR SOUND WILL BE  
19 TRANSMITTED BY MEANS OF WIRE, RADIO OR TELEVISION  
20 COMMUNICATION FROM ONE COUNTRY TO ANOTHER.

21 IT DOES NOT MATTER WHETHER THE MATERIAL  
22 WIRED WAS ITSELF FALSE OR DECEPTIVE SO AS LONG AS  
23 THE WIRES WERE USED AS A PART OF THE SCHEME, NOR  
24 DOES IT MATTER WHETHER THE SCHEME OR PLAN WAS  
25 SUCCESSFUL OR THAT ANY MONEY OR PROPERTY WAS

1 OBTAINED.

2 THE GOVERNMENT CHARGES THAT MR. HU MADE  
3 THE FOLLOWING FRAUDULENT STATEMENTS,  
4 REPRESENTATIONS OR PROMISES.

5 A, THAT GLOBEOP FINANCIAL SERVICES WAS  
6 THE FUND ADMINISTRATOR FOR DEFENDANT HU'S FIRESIDE  
7 LS FUND.

8 B, THE LAW FIRM PROSKAUER ROSE WAS  
9 ENGAGED AS LEGAL COUNSEL FOR DEFENDANT HU'S  
10 FIRESIDE LS FUND.

11 C, THE FIRM OF CASTILLO, LYN, COHEN &  
12 VIJAY WAS AN INDEPENDENT AUDITOR FOR DEFENDANT  
13 ASENQUA BETA FUND AND FIRESIDE LS FUND.

14 D, THAT AN INDIVIDUAL NAMED TONY POLLACE  
15 WAS THE CHIEF FINANCIAL OFFICER OF THE ASENQUA BETA  
16 FUND AND THE FIRESIDE LS FUND AND THAT POLLACE HAD  
17 SIGNED OFF ON QUARTERLY FINANCIAL STATEMENTS OF  
18 THOSE HEDGE FUNDS WHICH DEFENDANT HU PROVIDED TO  
19 INVESTORS.

20 E, THAT AS OF MAY 2007 THE MINIMUM AMOUNT  
21 INDIVIDUALS WERE INVESTING IN THE FIRESIDE LS FUND  
22 TO DATE WAS \$1 MILLION.

23 F, THAT DEFENDANT HU WOULD PAY INVESTORS  
24 RATES OF RETURN AS HIGH AS 20 TO 30 PERCENT  
25 ANNUALLY AND THAT THESE WERE HISTORIC RATES OF

1        RETURN FOR HIS HEDGE FUND.

2                AND G, THAT DEFENDANT HU WOULD OBTAIN  
3        THESE HIGH RATE RETURNS FOR INVESTORS PRIMARILY BY  
4        INVESTING THEIR FUNDS IN TECHNOLOGY-RELATED  
5        SECURITIES.

6                AN ACT IS DONE KNOWINGLY IF THE DEFENDANT  
7        IS AWARE OF THE ACT AND DOES NOT ACT THROUGH  
8        IGNORANCE, MISTAKE OR ACCIDENT.

9                THE GOVERNMENT IS NOT REQUIRED TO PROVE  
10       THAT THE DEFENDANT KNEW HIS ACTS OR OMISSIONS WERE  
11       UNLAWFUL. YOU MAY CONSIDER EVIDENCE OF THE  
12       DEFENDANT'S WORDS, ACTS OR OMISSIONS ALONG WITH ALL  
13       THE OTHER EVIDENCE IN DECIDING WHETHER THE  
14       DEFENDANT ACTED KNOWINGLY.

15               WHEN YOU BEGIN YOUR DELIBERATIONS YOU  
16       SHOULD ELECT ONE MEMBER OF THE JURY AS YOUR  
17       PRESIDING JUROR WHO WILL PRESIDE OVER THE  
18       DELIBERATIONS AND SPEAK FOR YOU HERE IN COURT.

19               YOU WILL THEN DISCUSS THE CASE WITH YOUR  
20       FELLOW JURORS TO REACH AGREEMENT IF YOU CAN DO SO.  
21       YOUR VERDICT, WHETHER GUILTY OR NOT GUILTY MUST BE  
22       UNANIMOUS.

23               EACH OF YOU MUST DECIDE THE CASE FOR  
24       YOURSELF, BUT YOU SHOULD DO SO ONLY AFTER YOU HAVE  
25       CONSIDERED ALL THE EVIDENCE, DISCUSSED IT FULLY

1 WITH THE OTHER JURORS, AND LISTENED TO THE VIEWS OF  
2 YOUR FELLOW JURORS.

3 DO NOT BE AFRAID TO CHANGE YOUR OPINION  
4 IF THE DISCUSSION PERSUADES YOU THAT YOU SHOULD.  
5 BUT DO NOT COME TO A DECISION SIMPLY BECAUSE THE  
6 OTHER JURORS THINK IT IS RIGHT.

7 IT IS IMPORTANT THAT YOU ATTEMPT TO REACH  
8 A UNANIMOUS VERDICT, BUT OF COURSE ONLY IF EVEN OF  
9 YOU CAN DO SO AFTER HAVING MADE YOUR OWN  
10 CONSCIENTIOUS DECISION. DO NOT CHANGE AN HONEST  
11 BELIEF ABOUT THE WEIGHT AND EFFECT OF THE EVIDENCE  
12 SIMPLY TO REACH A VERDICT.

13 BECAUSE YOU MUST BASE YOUR VERDICT ON THE  
14 EVIDENCE RECEIVED IN THE CASE, AND ON THESE  
15 INSTRUCTIONS, I REMIND YOU THAT YOU MUST NOT BE  
16 EXPOSED TO ANY OTHER INFORMATION ABOUT THE CASE OR  
17 TO THE ISSUES IT INVOLVES. EXCEPT FOR DISCUSSING  
18 THE CASE WITH YOUR FELLOW JURORS DURING YOUR  
19 DELIBERATIONS.

20 DO NOT COMMUNICATE WITH ANYONE IN ANY WAY  
21 AND DO NOT LET ANYONE ELSE COMMUNICATE WITH YOU IN  
22 ANY WAY ABOUT THE MERITS OF THE CASE OR ANYTHING TO  
23 DO WITH IT. THIS INCLUDES DISCUSSING THE CASE IN  
24 PERSON OR WRITING, BY PHONE OR ELECTRONIC MEANS VIA  
25 E-MAIL, TEXT MESSAGES OR ANY INTERNET CHAT ROOM,

1       BLOG, WEBSITE OR OTHER FEATURE.

2               THIS APPLIES TO COMMUNICATING WITH YOUR  
3       FAMILY MEMBERS, YOUR EMPLOYER, THE MEDIA OR PRESS  
4       AND THE PEOPLE INVOLVED IN THE TRIAL. IF YOU ARE  
5       ASKED OR APPROACHED IN ANY WAY ABOUT YOUR JURY  
6       SERVICE OR ANYTHING ABOUT THIS CASE, YOU MUST THAT  
7       YOU HAVE BEEN ORDERED WANT TO DISCUSS THE MATTER  
8       AND TO REPORT THE CONTACT TO THE COURT.

9               DID NOT READ, WATCH OR LISTEN TO ANY NEWS  
10      OR MEDIA ACCOUNTS OR COMMENTARY ABOUT THE CASE OR  
11      ANYTHING TO DO WITH IT. DO NOT DO ANY RESEARCH,  
12      CONSULTING DICTIONARIES, SEARCHING THE INTERNET OR  
13      USING OTHER REFERENCE MATERIALS. AND DO NOT MAKE  
14      ANY INVESTIGATION OR ANY OTHER WAY TO TRY TO LEARN  
15      ABOUT THE CASE ON YOUR OWN.

16              THE LAW REQUIRES THESE RESTRICTIONS TO  
17      ENSURE THE PARTIES HAVE A FAIR TRIAL BASED ON THE  
18      SAME EVIDENCE THAT EACH PARTY HAS HAD AN  
19      OPPORTUNITY TO ADDRESS.

20              A JUROR WHO VIOLATES THESE RESTRICTIONS  
21      JEOPARDIZES THE FAIRNESS OF THESE PROCEEDINGS. IF  
22      ANY JUROR IS EXPOSED TO ANY OUTSIDE INFORMATION,  
23      PLEASE NOTIFY THE COURT IMMEDIATELY. SOME OF YOU  
24      HAVE TAKEN NOTES DURING THE TRIAL.

25              WHETHER OR NOT YOU TOOK NOTES YOU SHOULD

1 RELY ON YOUR OWN MEMORY OF WHAT WAS SAID, NOTES ARE  
2 ONLY TO ASSIST YOUR MEMORY. YOU SHOULD NOT BE  
3 OVERLY INFLUENCED BY YOUR NOTES OR THOSE OF YOUR  
4 FELLOW JURORS.

5 THE PUNISHMENT PROVIDED BY LAW FOR THE  
6 CRIMES INVOLVED IS FOR THE COURT TO DECIDE IF THERE  
7 IS A FINDING OF GOVERNMENT. YOU MAY NOT CONSIDER  
8 PUNISHMENT IN DECIDING WHETHER OR NOT THE  
9 GOVERNMENT HAS PROVED ITS CASE AGAINST MR. HU  
10 BEYOND A REASONABLE DOUBT.

11 A VERDICT FORM HAS BEEN PREPARED FOR YOU  
12 AFTER YOU'VE REACHED UNANIMOUS AGREEMENT ON YOUR  
13 VERDICT YOUR PRESIDING JUROR SHOULD COMPLETE THE  
14 VERDICT FORM ACCORDING TO YOUR DELIBERATIONS SIGN  
15 AND DATE IT, AND ADVISE THE COURT OFFICER THAT YOU  
16 ARE READY TO RETURN TO THE COURTROOM.

17 IF IT BECOMES NECESSARY DURING YOUR  
18 DELIBERATIONS TO COMMUNICATE WITH ME, YOU MAY SEND  
19 A NOTE THROUGH THE COURT OFFICER, SIGNED BY ANY ONE  
20 OR MORE OF YOU.

21 NO MEMBER OF THE JURY SHOULD EVER ATTEMPT  
22 TO COMMUNICATE WITH ME EXCEPT BY A SIGNED WRITING  
23 AND I WILL RESPOND TO THE JURY CONCERNING THE CASE  
24 ONLY IN WRITING OR HERE IN OPEN COURT.

25 IF YOU SEND OUT A QUESTION I WILL CONSULT

1 WITH THE LAWYERS BEFORE CONSIDERING IT, WHICH IT  
2 MAY TAKE SOME TIME. YOU MAY CONTINUE YOUR  
3 DELIBERATIONS WHILE WAITING FOR THE ANSWER TO ANY  
4 QUESTION.

5 REMEMBER THAT YOU ARE NOT TO TELL ANYONE  
6 INCLUDING ME, HOW THE JURY STANDS NUMERICALLY OR  
7 OTHERWISE ON ANY QUESTION SUBMITTED TO YOU  
8 INCLUDING THE QUESTION OF THE GUILTY OF MR. HU  
9 UNTIL AFTER YOU HAVE REACHED A UNANIMOUS VERDICT OR  
10 HAVE BEEN DISCHARGED.

11 ALL RIGHT. YOU ARE FREE TO DELIBERATE  
12 THIS AFTERNOON IF YOU WISH. WHAT I WOULD ASK IS IF  
13 YOU DECIDE -- WHEN YOU DECIDE WHAT YOUR SCHEDULE  
14 WILL BE FOR DELIBERATIONS, PLEASE GIVE ME A NOTE  
15 AND GIVE US A SCHEDULE.

16 I REQUIRE THE LAWYERS TO BE WITHIN TEN  
17 MINUTES OF THE COURTROOM. SO IF YOU HAVE A  
18 QUESTION OR HAVE A VERDICT, THEY CAN GET HERE  
19 PROMPTLY.

20 SO IF YOU'RE OUT TAKING A LUNCH BREAK OR  
21 WHATEVER, AND YOU ARE GOING TO WORK UNTIL ONLY A  
22 CERTAIN TIME IN THE AFTERNOON, WE WOULD LIKE TO  
23 KNOW THAT SO THAT WE CAN ADJUST OUR SCHEDULES  
24 ACCORDINGLY.

25 AS I MENTIONED TO YOU, THE VERDICT FORM

1 SHOULD BE FILLED OUT ONLY BY WHOEVER IS THE  
2 FOREPERSON. WHEN I SAY FOREPERSON, YEARS AGO AS  
3 YOU CAN PROBABLY IMAGINE, THAT VERDICT FORM WOULD  
4 SAY FOREMAN. AND THEN THEY GOT A LITTLE MORE TUNED  
5 INTO WHAT WAS POLITICALLY CORRECT AND THEY CHANGED  
6 IT TO FOREPERSON. AND NOW MORE OFTEN THAN NOT YOU  
7 SEE PRESIDING JUROR.

8 WHEN THE ORIGINAL SWITCH WAS BEING MADE  
9 TO FOREPERSON, FROM FOREMAN TO FOREPERSON, ONE OF  
10 THE JUDGES ACTUALLY IN STATE COURT GOT A VERDICT  
11 FORM SIGNED BY FOREPERSONS.

12 WE ONLY WANT IT SIGNED BY THE PRESIDING  
13 JUROR OR FOREPERSON.

14 ALSO, YOU ARE FREE TO OBVIOUSLY TAKE  
15 BREAKS DURING YOUR DELIBERATIONS TO STRETCH OR  
16 WHATEVER, BUT PLEASE REMEMBER YOU SHOULD ONLY TALK  
17 ABOUT THE CASE WHEN ALL 12 OF YOU ARE TOGETHER.  
18 YOU SHOULD NOT TALK ABOUT IT SEPARATELY, ONLY WHEN  
19 ALL 12 ARE TOGETHER.

20 AND MR. VALDEZ, I THINK YOU ARE THE  
21 ALTERNATE AND IF YOU WOULD HANG ON AFTER I SEND THE  
22 OTHER JURORS ON THEIR WAY I WOULD LIKE TO TALK TO  
23 YOU ABOUT WHAT YOU NEED TO DO.

24 AND WITH THAT I WILL HAVE MS. GARCIA -- I  
25 GUESS THE SECURITY OFFICER NEEDS TO BE SWORN.



1 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.  
2 (WHEREUPON THE SECURITY OFFICER WAS GIVEN  
3 THE OATH.)

4 COURT SECURITY OFFICER: I DO.

5 THE COURT: SO WHAT I WOULD LIKE YOU TO  
6 DO FIRST IS TO TAKE CARE OF ELECTING YOUR  
7 FOREPERSON THEN GIVE US A SCHEDULE SO WE KNOW WHAT  
8 WE ARE GOING TO DO AND THEN START YOUR  
9 DELIBERATIONS.

10 (WHEREUPON, THE FOLLOWING PROCEEDINGS  
11 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

12 THE COURT: MR. VALDEZ, IT CERTAINLY  
13 APPEARS AT THIS POINT WE ARE NOT GOING TO NEED YOU,  
14 BUT I WOULD ASK YOU TO GIVE YOUR TELEPHONE NUMBER,  
15 IF SHE DOESN'T HAVE IT, TO MS. GARCIA SO SHE HAS  
16 IT. IT'S ALWAYS POSSIBLE SOMETHING SHOULD OCCUR  
17 WITH THE JURY WHICH WOULD REQUIRE OUR NEED TO GET  
18 IN CONTACT WITH YOU.

19 I WOULD ALSO ASK YOU NOT TO TALK ABOUT  
20 YOUR EXPERIENCE OR JURY SEVERANCE UNTIL YOU'VE  
21 LEARNED THE JURY HAS IN FACT REACHED A VERDICT. AT  
22 THAT POINT IN TIME YOU ARE FREE TO TALK ABOUT THE  
23 CASE WITH OTHERS IF YOU WISH. ON THE OTHER HAND  
24 YOU HAVE ABSOLUTELY NO OBLIGATION TO DO SO.

25 IN CASE WE DON'T SEE YOU AGAIN I WOULD

1       LIKE TO THANK YOU FOR YOUR COOPERATION AND  
2       ATTENDANCE AND THE TENTATIVENESS THROUGHOUT THE  
3       TRIAL AND DON'T RESPOND TO THIS, BUT I DON'T KNOW  
4       WHETHER YOU HAVE MIXED EMOTIONS ABOUT SITTING  
5       THROUGH IT ALL AND NOT PARTICIPATING IN THE  
6       DECISION OR WHETHER YOU'RE HAPPY THAT YOU DON'T  
7       HAVE TO PARTICIPATE IN THE DECISION, BUT IN ANY  
8       EVENT WE THANK YOU FOR YOUR SERVICE.

9               IF YOU HAVE ANY PERSONAL BELONGINGS IN  
10       THE JURY ROOM, YOU ARE FREE TO GO GET THEM. AND  
11       ALSO MS. GARCIA WILL NEED TO COLLECT YOUR BADGE  
12       FROM YOU, AND I DON'T KNOW IF SHE'S GOT A PARKING  
13       VALIDATION SHE NEEDS TO GIVE YOU OR WHATEVER, BUT  
14       CHECK WITH HER BEFORE YOU LEAVE.

15              AND WITH THAT, THANKS AND YOU MAY GO GET  
16       YOUR STUFF.

17              LET ME CONFIRM WITH THE PARTIES I READ  
18       THE INSTRUCTIONS AS YOU EXPECTED I WOULD?

19              MR. FONG: YES, YOUR HONOR, ON BEHALF OF  
20       THE DEFENSE.

21              MR. FAZIOLI: YES, YOUR HONOR.

22              MR. LUCEY: SURE.

23              THE COURT: YOU HAD A SMILE BETWEEN YOU  
24       TWO, DID I MISS SOMETHING?

25              MR. LUCEY: WELL, I GUESS THERE'S TWO

1 POINTS, YOUR HONOR.

2 ONE, OBVIOUSLY EVERYONE MISSED THAT ONE  
3 OMISSION OF EVIDENCE IN THE DIRECT, CIRCUMSTANTIAL  
4 MATTER. YOU READ IT INTO THE RECORD, OBVIOUSLY.

5 WOULD THE PLAN BE TO PROVIDE A CORRECTED  
6 VERSION TO THE JURY OR --

7 THE COURT: I THINK IT'S STATED, IT'S  
8 OBVIOUS.

9 MR. FAZIOLI: YOUR HONOR, I MAY HAVE  
10 MISHEARD THIS, BUT IN THE INSTRUCTION OF REASONABLE  
11 DOUBT THERE'S A SENTENCE THAT SAYS, IT IS NOT  
12 REQUIRED THE GOVERNMENT PROVE GUILT BEYOND A  
13 REASONABLE DOUBT -- IT SAYS, THE SENTENCE IN THE  
14 WRITTEN INSTRUCTION SAYS, IT IS NOT REQUIRED THAT  
15 THE GOVERNMENT PROVE GUILT BEYOND ALL POSSIBLE  
16 DOUBT.

17 AND I RECALL THAT THE COURT MAY HAVE  
18 READ, IT IS NOT NECESSARY THAT THE GOVERNMENT PROVE  
19 GUILT BEYOND ALL POSSIBLE DOUBT.

20 I DON'T THINK IT'S A BIG ISSUE FROM OR  
21 PERSPECTIVE. SUBSTANTIVELY, IT'S QUITE SIMILAR.

22 THE COURT: WHAT ARE YOU SAYING I DID?

23 MR. FAZIOLI: I THINK ON THE SECOND  
24 SENTENCE SAYING, IT DOES NOT REQUIRE THE GOVERNMENT  
25 PROVE GUILT BEYOND ALL POSSIBLE DOUBT. IT MAY HAVE

1 BEEN READ, IT IS NOT NECESSARY THAT THE GOVERNMENT  
2 PROVE GUILT BEYOND ALL POSSIBLE DOUBT.

3 THE COURT: I DON'T SEE WHERE IT MAKES  
4 ANY DIFFERENCE, IF THAT'S WHAT I SAID.

5 MR. FAZIOLI: I DON'T REALLY THINK IT  
6 MAKES A BIG DIFFERENCE EITHER, JUST NOTING IT FOR  
7 THE RECORD.

8 THE COURT: I DO NOT RECALL DOING THAT  
9 BUT IT'S ENTIRELY POSSIBLE.

10 MR. FAZIOLI: AND I ASSUME THE DEFENSE  
11 DOESN'T HAVE AN ISSUE.

12 MR. FONG: I HAVE NO OBJECTION, NO  
13 COMMENT.

14 MR. FAZIOLI: THANK YOU, YOUR HONOR.

15 THE COURT: ANYTHING ELSE?

16 MR. FAZIOLI: NO.

17 MR. LUCEY: NO, YOUR HONOR.

18 THE COURT: I WOULD ASK YOU TO HANG  
19 AROUND UNTIL WE FIND OUT WHAT THEIR SCHEDULE IS  
20 AND WE CAN ACT ACCORDINGLY.

21 (WHEREUPON, A RECESS WAS TAKEN.)

22 (WHEREUPON, THE FOLLOWING PROCEEDINGS  
23 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

24 THE COURT: UNLESS THIS IS MORE  
25 COMPLICATED THAN I THINK, I WON'T BOTHER PUTTING ON

1 MY ROBE, BUT I THINK THE ANSWER IS YES.

2 MR. FONG: WE AGREE, YOUR HONOR.

3 MR. FAZIOLI: YES. IT IS YES.

4 THE COURT: SO LET ME JUST HAVE YOU LOOK  
5 AT THIS.

6 MR. FAZIOLI: IT'S COUNT SEVEN, I BELIEVE  
7 THEY WERE ASKING ABOUT.

8 THAT'S CORRECT.

9 MR. LUCEY: SO YOUR HONOR, JUST FOR THE  
10 RECORD, WE ARE REPLACING --

11 THE COURT: FOR THE RECORD, WE ARE  
12 CORRECTING THE VERDICT FORM TO READ MR. LIN IN  
13 COUNT SEVEN, RATHER THAN MR. VERDIELL. AND I'M  
14 GIVING THE JURY THE CORRECTED VERDICT FORM.

15 MR. LUCEY: AND IT'S OTHERWISE UNCHANGED.

16 MR. FAZIOLI: THANK YOU, YOUR HONOR.

17 MR. LUCEY: THANK YOU, YOUR HONOR.

18 MR. FONG: THANK YOU.

19 THE COURT: I HOPE SO. I MIGHT JUST  
20 DOUBLE CHECK. I THINK I PICKED THE MOST RECENT  
21 COPY.

22 MR. LUCEY: WE WILL DOUBLE CHECK TO MAKE  
23 SURE.

24 (OFF-THE-RECORD DISCUSSION.)

25 MR. FAZIOLI: I THINK THE SUBSTANCE IS

1 THE SAME. IT'S SLIGHTLY DIFFERENT. THE VERSION  
2 THAT WAS JUST DISTRIBUTED HAS A SLIGHTLY DIFFERENT  
3 FORMATTING.

4 MR. LUCEY: JUST THE SPACING OF THE LINES  
5 IS DIFFERENT ON THIS ONE.

6 MR. FAZIOLI: SO THIS WAS THE ONE THAT  
7 WAS DISTRIBUTED, AND THIS ONE HAS IT ON THE SIDE.

8 THE COURT: OKAY. I WILL GET THE  
9 CORRECT, SAME ONE.

10 MR. LUCEY: THANK YOU, YOUR HONOR.

11 MR. FAZIOLI: THANK YOU.

12 ACTUALLY, THIS VERSION HAS, IT'S E-N-G.

13 (WHEREUPON, THE FOLLOWING PROCEEDINGS  
14 WERE HELD IN THE PRESENCE OF THE JURY:)

15 THE COURT: ALL RIGHT.

16 WHO IS THE FOREPERSON?

17 JUROR: I AM.

18 THE COURT: HAS THE JURY REACHED A  
19 VERDICT?

20 JUROR: YES, WE HAVE.

21 THE COURT: WOULD YOU HAND IT TO  
22 MS. GARCIA, PLEASE.

23 ALL RIGHT. WOULD YOU PUBLISH THE  
24 VERDICT, PLEASE.

25 THE CLERK: YES.

1 LADIES AND GENTLEMEN OF THE JURY, HARKEN  
2 TO YOUR VERDICT, FOR IT WILL STAND RECORDED IN THE  
3 NORTHERN DISTRICT OF CALIFORNIA FOR THE MATTER OF  
4 CR-09-487, USA VERSUS ALBERT HU.

5 WE, THE MEMBERS OF THE JURY, IN THE ABOVE  
6 ENTITLED ACTION FIND THE DEFENDANT ALBERT KE-JENG  
7 HU AS TO COUNT ONE, GUILTY OF THE CHARGE OF WIRE  
8 FRAUD WITH RESPECT TO AN INTERSTATE WIRE TRANSFER  
9 OF A HUNDRED THOUSAND, SENT BY OR ON THE BEHALF OF  
10 MR. LIN ON OR ABOUT FEBRUARY 8TH, 2005, AS  
11 DESCRIBED IN INSTRUCTION 13.

12 COUNT TWO, GUILTY OF THE CHARGE OF WIRE  
13 FRAUD WITH RESPECT TO AN INTERSTATE WIRE TRANSFER  
14 OF A HUNDRED THOUSAND SENT BY OR ON BEHALF OF  
15 MR. LIN ON OR ABOUT FEBRUARY 23RD, 2005, AS  
16 DESCRIBED IN INSTRUCTION 13.

17 COUNT THREE, GUILTY OF THE CHARGE OF WIRE  
18 FRAUD WITH RESPECT TO AN INTERSTATE WIRE TRANSFER  
19 OF 250,000 SENT BY OR ON BEHALF OF MR. LIN ON OR  
20 ABOUT JULY 6, 2005, AS DESCRIBED IN INSTRUCTION 13.

21 COUNT FOUR, GUILTY OF THE CHARGE OF WIRE  
22 FRAUD WITH RESPECT TO AN INTERSTATE WIRE  
23 COMMUNICATION DIRECTING 2 MILLION WIRE TRANSFER BE  
24 SENT BY OR ON BEHALF OF MR. VERDIELL ON OR ABOUT  
25 APRIL 27, 2007, AS DESCRIBED IN INSTRUCTION 13.

1                   COUNT FIVE, GUILTY OF THE CHARGE OF WIRE  
2                   FRAUD WITH RESPECT TO AN INTERNATIONAL WIRE  
3                   TRANSFER OF 2 MILLION SENT BY OR ON BEHALF OF  
4                   MR. VERDIELL ON OR ABOUT APRIL 30TH, 2007, AS  
5                   DESCRIBED IN INSTRUCTION 13.

6                   COUNT SIX, GUILTY OF THE CHARGE OF WIRE  
7                   FRAUD WITH RESPECT TO AN INTERSTATE WIRE  
8                   COMMUNICATION DIRECTING THAT A 250,000 WIRE  
9                   TRANSFER BE SENT BY OR ON BEHALF OF MR. LIN ON OR  
10                  ABOUT JUNE 19, 2007, AS DESCRIBED IN INSTRUCTION  
11                  13.

12                  COUNT SEVEN, GUILTY OF THE CHARGE OF WIRE  
13                  FRAUD WITH RESPECT TO AN INTERNATIONAL WIRE  
14                  TRANSFER OF 250,000 SENT BY OR ON BEHALF OF MR. LIN  
15                  ON OR ABOUT JUNE 19TH, 2007, AS DESCRIBED IN  
16                  INSTRUCTION 13.

17                  DATED JUNE 20TH, 2012, JURY FOREPERSON  
18                  PAUL KEMPEN.

19                  THE COURT: MR. KEMPEN, DID THE CLERK  
20                  CORRECTLY READ THE VERDICT?

21                  JUROR: YES.

22                  THE COURT: DOES EITHER SIDE WISH TO HAVE  
23                  THE JURY POLLED.

24                  MR. FAZIOLI: NO, YOUR HONOR.

25                  MR. FONG: NO, YOUR HONOR.



1 THE COURT: ALL RIGHT, LADIES AND  
2 GENTLEMEN, THAT CONCLUDES YOUR SERVICE. I WANT TO  
3 THANK YOU VERY MUCH FOR YOUR COOPERATION AND  
4 ATTENDANCE THROUGHOUT THIS MATTER.

5 AS I TOLD YOU AT THE BEGINNING AND I  
6 THINK A COUPLE TIMES DURING THE TRIAL, UP ARE NOW  
7 FREE TO TALK ABOUT THE CASE TO ANYONE IF YOU WISH  
8 TO. ON THE OTHER HAND YOU HAVE ABSOLUTELY NO  
9 OBLIGATION TO DO SO.

10 SO IF THE ATTORNEYS WANT TO TALK TO YOU  
11 ABOUT THE CASE, YOU CAN TALK TO THEM IF YOU WANT  
12 TO, BUT YOU DON'T HAVE TO. SIMILARLY WITH FAMILY,  
13 EMPLOYERS OR FRIENDS, IT'S TOTALLY UP TO YOU.

14 SOMETIMES ATTORNEYS IN PARTICULAR LIKE TO  
15 TALK TO JURORS TO FIND OUT WHAT THEIR THINKING WAS  
16 AND GET CRITIQUES OF THEIR OWN PERFORMANCES, BUT  
17 AGAIN IT'S TOTALLY UP TO YOU WHETHER YOU TALK TO  
18 THEM OR NOT.

19 YOU HAVE BEEN A GREAT JURY, YOU HAVE BEEN  
20 TIMELY AND ATTENTIVE AND I REALLY APPRECIATE IT,  
21 AND WITH THAT YOU ARE EXCUSED.

22 THE COURT: AND I WILL BE BACK WITH  
23 COUNSEL IN ABOUT FIVE MINUTES.

24 (WHEREUPON, THE FOLLOWING PROCEEDINGS  
25 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

1 THE COURT: DO YOU WANT TO SET A  
2 SENTENCING DATE?

3 THE CLERK: YES. HOW ABOUT SEPTEMBER 4TH  
4 FOR SENTENCING?

5 MR. FAZIOLI: WOULD IT BE POSSIBLE -- I  
6 MAY BE IN A TRIAL THAT WEEK ON THAT DATE. I DON'T  
7 KNOW IF WE COULD DO IT A WEEK LATER, IF POSSIBLE.  
8 IF THE DEFENSE OBJECTS TO IT I CAN WORK AROUND IT.

9 MR. FONG: THERE'S NO OBJECTION,  
10 YOUR HONOR.

11 THE CLERK: OKAY. SEPTEMBER 10TH.

12 THE COURT: ALL RIGHT. ANYTHING ELSE?

13 MR. FONG: NO, YOUR HONOR.

14 MR. FAZIOLI: NO, NOTHING FURTHER.

15 THE COURT: THANK YOU FOR YOUR  
16 COOPERATION AND COURTESY THROUGHOUT THE CASE, AND  
17 IT'S VERY APPRECIATED BY ME.

18 THANKS.

19 MR. FAZIOLI: THANK YOU, YOUR HONOR.

20 MR. LUCEY: THANK YOU, YOUR HONOR.

21 MR. FONG: GOOD EVENING.

22 (WHEREUPON, THE PROCEEDINGS IN THIS  
23 MATTER WERE CONCLUDED.)  
24  
25

**CERTIFICATE OF REPORTER**

I, THE UNDERSIGNED OFFICIAL COURT  
REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,  
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND  
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS  
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
TRANSCRIPTION TO THE BEST OF MY ABILITY.

/s/

\_\_\_\_\_  
SUMMER A. FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

DATED: 6/26/12